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Executive Vice President

MEMORANDUM

TO: Liane Randolph, Chair, California Air Resources Board

FR: Robert O'Koniewski, Esq.

DT: May 31, 2022

RE: MSADA Comments on CARB's Proposed Advanced Clean Cars II Regulations

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The Massachusetts State Automobile Dealers Association respectfully submits the following comments on the California Air Resources Board's proposed Advanced Clean Cars II (ACC II) regulations to request that CARB follow its previous regulatory precedent and establish at least one mid-term review of its program implementation to assess motor vehicle manufacturer and governmental compliance with meeting ACC II's 2035 goals and to ensure that actual economic benefits, not detriments, are flowing to consumers, who are the lifeblood of our industry.

MSADA represents the economic interests of the 427 franchised new-car and truck dealers in the Commonwealth whose economic activity represents almost 20% of the Commonwealth's retail economy and who employ over 25,000 men and women. MSADA has been quite active with our Legislature and executive branch agencies for more than a decade to ensure that any commitment to a zero-emission vehicle inventory being pushed by the Commonwealth of Massachusetts is rational, well grounded in common sense, and economically beneficially to our customers. State government officials, for better or worse, have decided to insert the Commonwealth into the role of middleman in the new-vehicle retail market by statutorily committing to CARB's ZEV mandate and rules as allowed under the federal Clean Air Act. Hence, as California goes, so goes Massachusetts.

The ZEV rules, as drafted under ACC II, may be crafted as a mandate on manufacturer inventory but, as implemented in Massachusetts, in reality to date, serve as a consumption target. Targets and goals are nice, but there is much more needed if we are going to make this a reality. Currently, the percentage of new zero emission vehicles (electric, plug-in hybrid, and hydrogen fuel cell) sold in the Commonwealth as a percentage of overall sales is approximately 3%. Under the state's MOR-EV rebate program, initiated in June 2014, almost 25,000 vehicles have been sold to Massachusetts consumers with approximately $50.6 million in rebates distributed. (Starting on January 1, 2020, the current administration changed the MOR-EV program to provide a $2,500 rebate to eligible battery electric vehicles (BEVs) or fuel cell electric vehicles (FCEVs) with a purchase price below $50,000 and a $1,500 rebate to eligible plug-in hybrid electric vehicles (PHEVs) with an all-electric range of 25 miles or greater and a purchase price below $50,000.) Considering that our franchised dealers sell, on average, 300,000 new-cars and trucks annually, a continuation of a rebate program will have enormous financial implications for the Commonwealth to the tune of at least $600 million just to hit the 300,000 goal. (The current funding for the program is slated to expire in June 2022. There is legislation pending to commit statutorily at least $20 million annually to the program moving forward.)

Despite the rebate program, the car-buying public has not indicated an overwhelming desire thus far to commit their dollars in the limited EV marketplace, although there has been an uptick in sales and rebate issuance during the extraordinary price spike in gasoline prices over the past year. Since the

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Commonwealth has decided to play a role in the new-vehicle retail market, the state has doubled-down on its commitment to incentivize the purchase of the vehicles that it has determined the public should purchase. Up to recently with the gasoline price hikes, financial incentives historically are the only mechanisms that have "moved the needle" in terms of increased sales of ZEVs, albeit incrementally. In fact, studies have shown that when a ZEV subsidy is ended, sales of those vehicles tend to slow down and revert to pre-subsidy levels. As we saw in September-December 2019 when the Baker Administration ended funding of the MOR-EV rebate program, the effect on the ZEV market was devastating. ZEV sales decreased to almost nothing. They did not bounce back until the program was replenished with funding in January 2020. Similar trends have been illustrated throughout the country when rebates are not consistently offered. Accordingly, the General Court must provide stability to the ZEV market through the MOR-EV rebate program if it is serious about seeing this fledgling market thrive.

We provide this background information simply to demonstrate that regulatory agencies love to set mandates in stone and then let the market players try to adjust accordingly. In our industry, however, the only things we are certain of are the daily, monthly, quarterly, and annual uncertainties our small businessmen and women face in order to meet our customers' needs. No one expected a pandemic, combined with governments' responses, to shut down our economy in 2020. No one expected a subsequent microchip shortage, along with pandemic shutdowns of factories, to create a severe vehicle shortage, with its consequent price hikes in both the new-vehicle and used-vehicle markets.

Our member dealers are enthusiastically committed to a retail marketplace that involves ZEVs, regardless of powertrain, as viable replacements to the current menu of internal combustion engine cars and trucks. Our member dealers have aggressively marketed and sold all ZEVs which their franchisor manufacturers deliver to them. However, rebates cannot work alone to abate consumer misgivings or reluctance about ZEVs. As we see it, consumer demand for electric, other zero-emission, and low-emission vehicles is a function of a number of components that will need to improve over time if complete consumer adoption of ZEVs is to work:

- **Vehicle Price Affordability.** EVs, where available from a manufacturer, historically have been considerably more expensive than the comparable ICE vehicles. The state and federal government's financial incentive programs are designed to subsidize current EV sales due to the higher cost factor of the new technology. As the affordability gap narrows over time, consumer demand for EVs will rise, thereby allowing governments to eliminate these subsidies that essentially have assisted the wealthier among the populace to purchase more expensive vehicles. (It is this wealth gap amongst EV vs. ICE purchasers that has prompted some jurisdictions to create a subsidy program for low- to moderate-income residents. It has been discussed here, but not implemented.) The universal adoption of EVs cannot rely in the long-term on continued government subsidies, which will be prohibitive for the federal and state governments in view of the number of EVs that will be needed to replace ICE vehicles.
- **Vehicle Choice.** Although it is improving as more vehicle manufacturers commit to fuller EV menus, EV options available to the consumer, to date, have been slim. Once the consumer has more to choose from, sales numbers will increase accordingly.
- **Charging Infrastructure.** This is a major challenge for EV acceptance. Right now we can find a gas station seemingly on every corner. One cannot say the same for a charging network. Considerable private and public investment will be required to fund all aspects of a charging network. This will require utilities' accommodations; permitting and zoning amendments by local governments; statewide building code requirements to support apartment dwellers and business/commercial tenants; and a clear regulatory process for private entrepreneurs desiring to run charging kiosks or stations.
- **Battery Charge Life and Charging Time.** Vehicle and battery manufacturers will need to develop batteries whose charge will provide consumers the confidence they need to travel in a manner as they now possess with ICE vehicles. Knowing the impatience of the average person, battery charge time on the road must be at a tolerable level, especially when compared to the

minutes it takes to fill the gas tank of an ICE vehicle. Charging an EV overnight at home will be convenient, but needing a quick charge halfway into a trip to visit a sick parent or child may be a frustrating experience if the current time to recharge these vehicles is not improved upon.

- **Simple Mathematics.** Annually, our franchised dealers sell, on average, approximately 300,000 new cars and trucks; double that number annually for used vehicle sales at our dealerships. Committing to 100% ZEV sales by 2035 only means it could take upwards of 20 years to replace the by-then almost six million vehicles expected to be registered in Massachusetts. (This does not take into consideration what and how factors change over the next 14 years – e.g., does gasoline become so prohibitively expensive that consumers move into ZEVs at a quicker pace? The average life span of today's vehicle on the road is 12 years. As today's owners move closer to a vehicle end-of-life over the next couple of years, do they buy a ZEV or another ICE? Will the factories build product that consumers actually want and find adequate to meet their needs and tastes?) A wave of the government wand will not deliver a transition to complete ZEV compliance overnight. The consumer must be a willing and enthusiastic customer.
- **Increased Electricity Generation.** Much of our state's commitment in its clean energy and climate plan, including the movement to 100% ZEV sales, depends on transitioning away from electricity generation via fossil fuel and nuclear means. The 2050 generation goals in the plan are laudable; however, Americans depend on a reliable, affordable electricity supply at home and work. We in the Commonwealth need our heat in the Winter and our AC in the Summer. It is reasonable to ask where our needed electricity is going to come from as current generation plants, reliably fueled by gas, coal, and nuclear, are mothballed. Can utilities and government guarantee that all residential, commercial, and industrial electric needs will be met affordably in a move to a total renewable-powered grid? Recent events in a number of states, including California, demonstrated the need for grid reliability, especially when certain electricity generation types cannot operate. Further, on-going NIMBY movements in Massachusetts and our New England neighbors have obstructed the ability to construct power lines coming into our state from Hydro Quebec and extended the fight for the wind farms off of Cape Cod into its third decade. Governments across the country, including Massachusetts, have set renewables standards for utilities' portfolios that are heavily subsidized by taxpayer dollars as well as by ratepayers. These portfolio standards are useless if we ultimately cannot deliver the power from these sources to electricity customers.
- **Charging Infrastructure Control.** Once set up, who will control the charging stations and price? There is considerable price competition and available fuel supply provided by gas stations across the land on which ICE vehicle owners rely. Here, electricity currently is controlled by regional monopolies, with pricing as approved by the Departments of Public Utilities. We know the power companies never will take a revenue hit and hate competition. The infrastructure control mechanisms need to be established in a manner that benefits consumers, who are the ones being forced to buy from a menu of only ZEVs beginning in 2035. Finally, vehicles are owned and operated as needed transportation mechanisms by people of all backgrounds, races, income levels, location (urban-rural-suburban), and age. Much like the current distribution system for gasoline for ICE vehicles, reasonable and affordable access to charging infrastructure must be made available to all, regardless of race, income level, or residence location.
- **Are ZEVs Really Better for the Environment?** No one argues the benefit of cleaner air. But at what cost? The landscapes of a number of countries are being strip mined and deforested in the rush to obtain the minerals necessary to develop and build today's batteries. Our ocean bottoms do not seem to be immune from consideration for destruction in the rush for minerals. If nations and mining companies degrade our natural lands and beauty in the race for mineral conquests, thereby leading to erosion, groundwater contamination, and irreparable harm to our land and ocean ecosystems, is the total commitment to ZEVs then worth it? Clearly a reasonable balance must be sought to make sure we are not trading one source of pollution and environmental degradation for another. Further, national security concerns could be raised if the world's bad actors substantially possess and control the mineral components of vehicle batteries and battery manufacturing processes.

Until we know the "from where" and "at what cost" about electricity in the future, the when and how of total ZEV inventories need to be studied and coordinated with those factors to ensure a seamless junction of policy goals and not two trains running on separate tracks (however fueled). As CARB commits its resources fully to ACC II, our request is a simple one – create at least one required review period, perhaps at the midway point or one each at the five-year and the ten-year mark, to assess progress toward the 2035 mandated goals. Please keep in mind that there needs to be a comprehensive and cooperative approach that involves state and local governmental bodies, pertinent private entities who can assist with charging infrastructure commitments, the vehicle manufacturers, and the franchised dealers who carry the actual financial burden of retailing and servicing these vehicles once purchased from their franchisor manufacturers.

Finally, despite characterizations from certain parties to the contrary, our franchised dealers are committed to serving the arbiters of vehicle choice – our customers. It is our customers who will determine to what extent this transition to ZEVs will succeed. Our dealers, day in and day out, meet consumer needs efficiently through our franchise system that ensures acute inter- and intra-brand competition between dealers; convenient and affordable vehicle service and maintenance; and compliance with numerous federal and state consumer protection statutes such as the lemon laws. We challenge the premise that ZEV sales have not yet taken off because dealers purposefully throw up barriers. No, ZEV sales have muddled along because the necessary pieces of this puzzle as discussed herein have yet to be developed, nurtured, grown, and meshed together. Only then will we have a robust ZEV marketplace. Our dealers are engaged and enthused about the future for new vehicle offerings and markets. Our dealers have been long-committed to being part of the solution moving forward.

Thank you for your consideration of these issues. Should you require any additional information, please do not hesitate to contact us.