From: California resident Doug Peterson

To: Liane Randolph, Chair

California Air Resources Board

1001 I Street

Sacramento, CA 95814

Dear Chair Randolph: August 20th, 2022

My name is Doug Peterson, and I write a column called Green Rides that is published every other Sunday in the Drive Section of the San Jose Mercury News and the East Bay Times. My articles appear under my pen name, Peter Douglas. I have been providing this content for over two years now, determined to do my part to accelerate the adoption of zero emission vehicles. I advocate strongly for the greenest BEVs, but also for FCEVs and the most efficient PHEVs. I drive a Hyundai Ioniq, charging it with our home’s solar panels. I appreciate the opportunity to comment on the proposal as we near the end of the rulemaking process.

I fully support the Advanced Clean Cars II proposal and believe that the 2035 target date for phasing out the sale of ICE vehicles is feasible and appropriate. It will also be very challenging, and I urge the Board to reject the advice of well-meaning individuals who would like to see the transition implemented faster. The bulk of the GHG emission reductions generated by ZEVs will occur after our grids have been decarbonized, so it is more important that we set a reasonable target date and see it through than it is to rush the transition. The sensible 2035 target date is in line with similar mandates being adopted by other nations and reflects the sound judgement of Governor Gavin Newsom and other progressive world leaders.

I also support the pragmatic provisions that allow a limited percentage of highly efficient PHEVs to be treated as zero emission vehicles, even though they emit tailpipe pollutants. Many compassionate commenters have expressed valid concerns about how difficult it will be to bring home charging to low-income communities, and this is truly one of the greatest equity challenges we face. Currently available PHEVs provide important green options for these communities. It does not appear feasible to retrofit multiunit dwellings with Level 2 chargers fast enough to meet the 2035 goal with just BEVs. I am dismayed that our nation is not doing more to support FCEVs and the deployment of hydrogen infrastructure, which could also provide a more practical fueling option to renters.

I am writing today to express my grave concerns about recent changes to the federal EV tax credit that were signed into law along with other more beneficial climate provisions in the Inflation Reduction Act. The ill-conceived eligibility restrictions on the $7,500 tax credit have profound implications for the feasibility of the Advanced Clean Cars II proposal, and it is extremely disappointing that they were agreed to behind closed doors just as California’s thoughtful proposal was about to be finalized. I believe that the only prudent course of action at this time is to delay the finalization of the proposal until the market effects of the IRA can be studied. I say this with deep regret.

While many of the details of the new federal tax credit are unclear, what we do know should lead us to believe that the legislation will slow ZEV adoption considerably, especially BEV adoption. New income limits will prevent affluent Americans from accessing the credit, and it will continue to be a nonrefundable credit that is largely unavailable to low-income Americans. MSRP price caps will disqualify many popular luxury ZEV models, which compete against luxury ICE vehicles in this important market segment. No current FCEVs qualify for the credit. The battery content restrictions are likely to create new sourcing bottlenecks that drive up the cost of raw materials and increase the price of ZEVs relative to their ICE counterparts. When all the eligibility restrictions are combined, very few BEV models are going to qualify for this credit, especially in the near term. In almost every way imaginable, the eligibility restrictions are good news for ICE vehicles and bad news for ZEVs. A straightforward repeal of the 200,000 vehicle sales cap would have been very helpful, but that is not what President Biden signed into law.

These negative effects are only the tip of the iceberg. The immediate disqualification of ZEVs assembled outside of North America puts the brakes on ZEV adoption and makes California’s ZEV mandates extremely unfair to disqualified automakers. It is difficult to see how foreign companies will be able to achieve the rapidly escalating ZEV mandates while facing a permanent $3,750 to $7,500 pricing disadvantage through 2032. They will also have great difficulty maintaining compliance under the EPA’s regulatory framework. It is unrealistic to believe that they will simply move their ZEV assembly plants to our shores, disenfranchising their own autoworkers. The overt purpose of this provision is to give U.S. automakers a decisive sales advantage over foreign competitors, and this is exactly what it will do. The provision may well violate important trade agreements, and many otherwise friendly nations have already voiced their stern, legitimate objections. Sadly, many of the most efficient, most affordable BEVs have now been disqualified.

The new federal tax credit is also going to boost the sale of inefficient PHEVs that the current proposal does not recognize as ZEVs. It will be much easier for PHEVs to meet the battery content requirements than it will be for BEVs, because PHEVs have much smaller batteries. Automakers facing supply chain limitations will steer their qualifying battery content into PHEVs immediately in order to secure eligibility for the full $7,500 credit on those models. There are no federal tax restrictions that require these PHEVs to be efficient, and the value of the credit is now much higher for PHEVs than it was under the old federal tax rules. Inefficient PHEVs will compete strongly against the efficient PHEVs that automakers need to sell to achieve the ZEV mandates. They will also compete much more strongly against BEVs, which will not be able to meet the battery content requirements as quickly, if at all. BEVs that do qualify will no longer enjoy the pricing advantage over PHEVs that the scaled federal tax credit used to confer.

Automakers have no way to control how consumers will respond to these newly configured $7,500 tax credits, and they objected to the draconian eligibility restrictions. My work in EV advocacy leads me to believe that consumers covet this substantial tax credit, and even though there are now many taxpayers who will not qualify for it anyway, those that do will be far more inclined to purchase a PHEV instead of a BEV. The legislation also appears to be a death blow to our struggling imported FCEVs, which will now have even more difficulty competing against the other two ZEV powertrains, lowering the prospects for new hydrogen fueling infrastructure.

The new refundable $4,000 federal tax credit for used ZEVs and the cash-on-the-hood provision appear to be positive steps for low-income car buyers, but the combination of the $25,000 price cap, the requirement that the used ZEV be purchased from a dealership, and the requirement that the ZEV be at least two years old will disqualify all but the most obsolete BEVs with short ranges and sluggish charging speeds. Low-income taxpayers that do access the $4,000 credit will often be renters with no home charging, and most will tend to purchase used PHEVs, not impractical BEVs. The availability of tax credits for used PHEVs will help low-income communities but will not provide the more substantial emission reductions generated by used BEVs.

There are many ways that California’s carefully crafted proposal might be adapted to mitigate the negative effects of the federal EV tax credit legislation. As bad as it is going to be for the environment, a higher proportion of ZEV sales will be PHEVs in the coming years, and we should consider allowing more of them to qualify as ZEVs and increase the quota that can satisfy the mandates, at least in the near term. We could reluctantly delay the 2035 target date, or at least pace the escalating mandates differently so that they are less aggressive in the near term. It is hard to imagine how the proposal could be adapted to restore fairness to automakers who assemble their ZEVs outside of North America, but the status quo seems entirely unacceptable. Perhaps these automakers could be eligible for creative regulatory advantages that compensate for the pricing disadvantage.

If the Board votes to finalize the proposal now, as I expect it will, it should formally recognize the significant potential impacts of the IRA and initiate an immediate, dedicated round of accelerated rulemaking to consider adjustments to the Advanced Clean Cars II framework.

I will conclude by timidly suggesting that the California Air Resources Board may have a legal obligation to postpone making a final decision on the Advanced Clean Cars II proposal. The rulemaking process requires that relevant information be carefully considered and that stakeholders have a reasonable opportunity to provide input and defend their legitimate interests. There is no exception for significant new information that arrives out of the blue in an untimely fashion. Regulatory decisions like these must ultimately be made in a constantly changing world, but the passage of the IRA represents far more than an incremental shift in the market conditions impacting the feasibility of the ZEV mandates. The carefully crafted balance that has been achieved by this proposal has been toppled by the federal government at the last minute of the eleventh hour. It is a fine proposal, but it should not be finalized until the effects of the Inflation Reduction Act have been vetted and appropriate adjustments have been made. The relentless escalation of the climate crisis is very troubling and requires swift, bold action, but we need to take the time to get this proposal right. In the grand scheme of things, a delay would not severely undermine the proposal or delay the 2035 target date.

Thank you for considering my thoughts.