

October 17, 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:

Several health, science, and environmental organizations sent you a letter on September 29, 2006 outlining our concerns regarding staff's proposed amendments to the Zero Emission Bus regulation. After conversations with staff and various affected transit properties, we are writing to reinforce our concerns about the impact of the proposed changes on zero emission technology and to clarify our position at this point. We had previously urged you to simply delay consideration of the rule until after the zero emission technology review is complete. We now recognize that this approach could have the unintended consequence of jeopardizing funding and progress on the proposed advanced demonstration, which we strongly support. Therefore, while we are now not opposing the proposed three year delay in ZEB purchase requirements, we are still very concerned about the performance based criteria proposed for bus purchases. Our key recommendations are the following:

1. Remove performance-based criteria for determining bus purchase requirements.

We believe linking the percentage purchase requirement to bus cost and technology performance establishes a bad precedent and could have the effect of slowing zero emission bus progress by creating perverse incentives for some stakeholders. For example, under the September 1, 2006 staff proposal, transit properties could be encouraged to adopt operating and maintenance practices that reduce reliability or develop bus order specifications to increase costs in order to avoid regulation. This provision requires more thorough consideration and, given the technological linkages between fuel cell cars and buses, will benefit from information collected in the ongoing technology review. Fortunately, the staff's proposed three-year delay in the purchase requirement affords ample time for the board to re-evaluate the wisdom and details of any link between technology performance and the purchase requirement. This element of the bus rule need not be decided now and should be re-analyzed with more complete information. If the board wants to revisit this item, the board would have at least 2 years to consider this approach before bus properties would have to make any decisions about purchases in the year 2011. In the intervening time, the board can review the proposed technology performance criteria and determine which components are key indicators of fuel cell readiness for transit bus applications.

2. Develop strategies to make up lost numbers of buses and lost emission reductions.

We continue to be concerned that the number of buses required in the advanced demonstration is roughly one-third of the buses currently required during that time period for diesel transit properties. While some of these buses are made up in later years, the total

number of buses still falls significantly short of the number currently required. Therefore, we urge you to direct staff to develop a strategy for making up the lost buses in future years through increased requirements for the diesel transit properties starting in 2011. We also believe staff should, in the context of a 15-day rule change, include a requirement for transit properties to offset the additional pollution created by the three-year delay in the ZEB purchase requirement.

Thank you for your consideration of our recommendations. We look forward to working with you to make the Zero-Emission Bus regulation successful.

Sincerely,

Jason Mark
Union of Concerned Scientists

Bonnie Holmes-Gen
America Lung Association of California

Susan Frank
Steven and Michele Kirsch Foundation

Luke Tonachel
Natural Resources Defense Council

Cc: Catherine Witherspoon, Executive Officer
Tom Cackette, Chief Deputy Executive Officer
Analisa Bevan, Chief, Sustainable Transportation Technology Branch