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March 26, 2008

Mary D. Nichols, Chairman  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

RE: Massachusetts Comments Regarding the California's 2008 Proposed Amendments to the  
Zero Emission Vehicle Regulations

Dear Chairman Nichols:

On behalf of the Massachusetts Department of Environmental Protection (MassDEP), I am pleased to submit the following comments on California's proposed amendments to the Zero Emission Vehicle (ZEV) Program regulations. Overall, Massachusetts supports the ZEV revisions. However, we recommend two important changes.

Section 177 of the Clean Air Act (42 U.S.C. 7507) authorizes states outside of California to adopt California's standards to control emissions from new motor vehicles. In 1992, Massachusetts became the first state to adopt the California Low Emission Vehicle (LEV) standards. Since the adoption of the LEV program, MassDEP has revised its LEV regulations numerous times to remain consistent with California's requirements to ensure the environmental benefits for the Commonwealth above and beyond the federal regulations. The LEV program in California and Massachusetts has been a great success and has encouraged the auto industry to invest in and develop advanced technology vehicles such as battery electric vehicles, hybrids, and hydrogen fuel-cell vehicles. The continued development and placement of these advanced technology vehicles is essential to meet air quality goals, reduce greenhouse gas emissions that contribute to global warming, and to protect public health.

The proposed revisions to the ZEV mandate would significantly amend the travel provision by expanding the provision to battery electric vehicles until 2014 and extending it further into the future for fuel cell vehicles from 2011 to 2017. Automobile manufacturers that place battery electric vehicles and fuel cell vehicles primarily in California would get credits toward their

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regulatory obligation in California and in all Section 177 states. Our concerns are that, under this likely scenario, none of the air quality benefits of these vehicles will accrue in Massachusetts and consumer demand for these vehicles will go unmet further into the future. While this arrangement might have made sense at one time, it makes little market sense today. Massachusetts, like California and an increasing number of Section 177 states, has undertaken many bold, economy-wide initiatives and incentives to reduce vehicle emissions. However, reduction of emissions from the transportation sector continues to be one of our bigger challenges. We want to ensure the availability and introduction of advanced technology and zero emissions vehicles so they are available for Massachusetts' consumers. We need these new vehicles, not just credits based on their use elsewhere. We strongly believe that more equitable distribution of early available battery electric and fuel cell vehicles to California, Massachusetts and other Section 177 states will help meet this market demand, and accelerate bringing these vehicles into quicker, full scale production.

Our specific recommendations on the proposed changes to the ZEV requirements are set forth below.

#### **1) The proposed expansion of the travel provision to battery electric vehicles**

The proposed revisions would expand the travel provision, now applicable only to fuel cell vehicles, to battery electric vehicles (BEVs) until 2014. MassDEP recommends that this extension be removed altogether or that the sunset date be moved to 2010. Massachusetts' regulations provide the automobile manufacturers flexibility to comply with the ZEV mandate by allowing them to earn ZEV credits by the early introduction of ZEVs through the alternative compliance plan (ACP). Some manufacturers that opted into the ACP have banked enough credits to meet the California's ZEV percentage requirements. As battery electric technologies continue to advance, particularly in light of recent breakthroughs in battery technology and increased consumer demand due to fuel prices, Massachusetts and other LEV states should receive the same benefits of these new classes of vehicles as California. If the travel provision is expanded to BEVs, the number of vehicles placed in Massachusetts and in other Section 177 states will be severely limited and we may not see delivery of any of these vehicles for the next 10 years.

#### **2) The proposed extension of the travel provision from 2011 to 2017 for fuel cell vehicles**

The current 2011 sunset date for the travel provision for fuel cell vehicles should be retained and should not be extended to 2017. As mentioned above, Massachusetts has provided the automobile manufacturers with the opportunity to bank ZEV credits, which can be used to meet the ZEV program requirements. If the extension is added, Massachusetts and other LEV states may not receive the next generations of promising fuel cell vehicles for the next 12 years.


In conclusion, the implementation of the California LEV program in California and the Northeast LEV states has led to the development of advanced vehicle technologies which further California's and our goal of demonstrating vehicles with zero emissions. As a result, the vehicle market, as well as consumer demand, supports the introduction of battery electric and fuel cell

vehicles in all Section 177 states. For these reasons and those stated above, we believe that the extensions proposed by CARB in these amendments are no longer necessary.

Massachusetts looks forward continuing the partnership we have developed with California and the other LEV states to advance our shared goal of advanced technology, clean vehicles. We appreciate the opportunity to present our views on the proposed amendments. Please do not hesitate to contact me, or Christine Kirby of MassDEP at 617-292-5631 or [Christine.Kirby@state.ma.us](mailto:Christine.Kirby@state.ma.us) if you have any questions

Thank you for your careful consideration of these comments and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie Burt", with a long horizontal line extending to the right.

Laurie Burt  
Commissioner

cc: NESCAUM Commissioners and Air Directors