Pennsylvania Department of Environmental Protection

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Harrisburg, PA 17105-2063

Office of Waste, Air and Radiation Management 717-772-2724

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

Re: California Air Resources Board's Proposed Repeal of 2007 Amendments to the Emission Warranty Information Reporting and Recall (EWIR) Regulations and Emission Test Procedures

Dear Sir or Madam:

The Pennsylvania Department of Environmental Protection (DEP) is writing to express its support for the proposed repeal of the 2007 amendments to California's Emission Warranty Information Reporting and Recall (EWIR) Regulations and emission test procedures that is scheduled for a public hearing before the California Air Resources Board on November 19, 2009. We are submitting these comments pursuant to 25 *Pa. Code* § 126.451(2)(iii), which requires DEP to submit comments on behalf of the residents of the Commonwealth of Pennsylvania (Pennsylvania) on proposed or final-form rulemakings amending the California Code of Regulations (CCR) requirements that are incorporated by reference into the Pennsylvania Clean Vehicle Program regulations.

Pennsylvania adopted and incorporated by reference California's Low Emission Vehicle (LEV) regulations in 1998, except for the California Zero Emission Vehicle and emissions control system warranty statement provisions (Title 13 CCR, Division 3, Chapter 1, §§1962 and 2039). 28 *Pennsylvania Bulletin* 5873 (Dec. 5, 1998). The California proposal would amend Title 13 CCR, Division 3, Chapter 1, §§ 1956.8 and 1961, and the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," referenced therein, all of which are included in Pennsylvania's incorporation by reference in 25 *Pa. Code* § 126.411(b). Pennsylvania's regulations are found in 25 *Pa. Code* Chapter 126, Subchapter D, entitled, "The Pennsylvania Clean Vehicles Program."

With regard to the California Air Resources Board's (CARB) proposed repeal of the 2007 amendments to the EWIR regulations, DEP supports repealing the amendments and reinstating or readopting the EWIR regulations that were in place before the 2007 amendments. In December 2008, a California judge ruled to invalidate the portion of the 2007 amendments that established a four percent corrective threshold because it did not constitute a "test procedure" as that term is used in the California Health and Safety Code. Without that portion of

the amendments to trigger corrective action, the amended regulations are basically unenforceable. DEP supports repealing the amendments in order for an enforceable program to be in place. DEP also supports repealing the amendments as a way to make certain that vehicles with defective emission equipment are subject to recalls and repair, as originally intended by the EWIR regulations. Reverting to or readopting the prior regulations ensures that vehicles certified by CARB and purchased by Pennsylvania residents will continue to be tested for emission equipment failures, and will be eligible for recall or repairs if required by CARB.

Thank you for your consideration of our comments on California's proposed repeal of the 2007 amendments to the EWIR regulations and emission test procedures. Please do not hesitate to contact me by e-mail at kereisinge@state.pa.us or by telephone at (717) 772-2724 if you have any questions or need additional information. You may also contact Joyce E. Epps, Director of the Bureau of Air Quality, by e-mail at jeepps@state.pa.us or by telephone at 717-787-9702.

Sincerely,

Kenneth R. Reisinger
Acting Deputy Secretary