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Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

RE: Pennsylvania Clean Vehicles Program

Dear Members of the EQB:

The Pennsylvania Chamber of Business and Industry is providing comments on the proposed regulation "Pennsylvania Clean Vehicles Program." The PA Chamber is the largest broad-based business association in the state. Our thousands of statewide members employ more than 50 percent of the private workforce.

The PA Chamber recommends that this proposed rulemaking not proceed at this time. Both the House and Senate have introduced legislation which would prohibit the adoption of a California Low Emission Vehicle Program (CA LEV) until a stakeholder process can be established to analyze our state's options.

A number of interests have weighed in on this issue and predicted dire consequences for Pennsylvania, including more controls on stationary sources, if the CA LEV program is not implemented in the Commonwealth. As Pennsylvania's largest broad-based business advocacy organization, representing businesses concerned about both mobile and stationary sources, we thought a clarification of the issues, including a brief background on the CA LEV issue in Pennsylvania would be appropriate.

First, it is important to note that the CA LEV program is **not** the vehicle inspection program. These are two separate and distinct programs to control pollutants that lead to the formation of smog.

In 1990, Congress enacted the Clean Air Act Amendments, which strengthened existing programs to improve air quality. Part of that legislation gives states the ability to adopt California vehicle standards in lieu of federal standards, but expressly forbids creation of a vehicle program that is some compromise of the two (known as the third car rule.) It also means that only two entities can set vehicle standards: the federal government and the state of California through its Air Resources Board (CARB.)

In 1992, the Pennsylvania General Assembly enacted legislation to implement their requirements under the federal Clean Air Act legislation. Among other things, the PA General Assembly took two important actions in that 1992 legislation. First, they banned the prescription of California severely reformulated gasoline. Second, they authorized the creation of a commission to study whether it made sense for the Commonwealth to

adopt CA LEV. That commission, composed of legislative, business, consumer, and environmental interests met and rejected adoption of CA LEV for Pennsylvania.

During the latter part of the 1990's, four different "ozone stakeholder" groups (Southeastern PA, Lehigh Valley/Reading, Southcentral, and Southwestern) met to recommend control strategies to assist PA in meeting their attainment requirements under the Clean Air Act. These groups were again composed of diverse interests including the PA Department of Environmental Protection and the U.S. Environmental Protection Agency, as well as business and industry, consumer, and environmental groups. Of the three groups that discussed vehicle options (the Pittsburgh area group did not address the vehicle option) all clearly opted for federal auto standards instead of CA LEV. The Southeast group met in 1996 and endorsed the National Low Emission (NLEV) (minus the Zero Emission Vehicle (ZEV) component, that is an electric car.) The Lehigh Valley/Reading and Southcentral groups met in 1999 and endorsed the Tier 2 auto. This Tier 2 program is the successor to NLEV.

From the Southeastern group:"The stakeholders recommend the Commonwealth implement the National Low Emission Vehicle (NLEV) because of its national focus and cost-effectiveness. In the absence of NLEV, the stakeholders recommend the Commonwealth implement the Ozone Transport Commission Low Emission Vehicle (OTC LEV.)" (The OTC-LEV is the version of CA LEV adopted by the states of the Ozone Transport Region which includes Virginia through Maine.)

From both the Lehigh Valley/Reading and Southcentral groups: "We support the level of emission reduction that would be achieved in the Pennsylvania regional area by the implementation of the EPA's proposed national Tier 2 rulemaking. ....In the event that either the national Tier 2 program is diluted in contrast to its current proposed emission requirements or the federal government fails to implement the national program, we recommend that DEP collaboratively engage with Pennsylvania regional (multistate) commissions/compacts/stakeholder processes and with upwind states to achieve emissions reductions substantially equivalent to those expected under the Tier 2 proposed rule."

It is clear from the recommendations of these groups that the CA LEV program (minus the Zero Emission Vehicle i.e. electric car component) was intended solely as backup to NLEV/Tier 2 in the event that automakers did not comply with a cleaner, national standard for tailpipe emissions or if the national standards were somehow derailed in another way.

DEP documents support this view as well. A review of the minutes from the September 15, 1998 EQB meeting, when the rules were proposed for the "New Motor Vehicle Emissions Control Program," includes an explanation from DEP that the rulemaking opts Pennsylvania "into the NLEV program" and provides a "back up state Clean Vehicle Program." In response to questions from board members, DEP representatives responded that the language "is part of verbatim language that EPA is asking us to adopt. This is

trying to make continuity about clean vehicles from the NLEV vehicle to what is called the Tier-2 vehicle.”

Further, the Philadelphia Department of Public Health, Air Management Services in its August 2004 plan submittal to EPA detailing how they will maintain air quality standards for carbon monoxide stated, “The NLEV program became effective in 1999. The Tier 2/Low Sulfur Fuel Program takes effect in 2004 and provides benefit for subsequent years.”

DEP and others have claimed that implementation of the CA LEV program is necessary for Pennsylvania to meet its obligations under the Clean Air Act. US EPA has indicated that all areas, other than southeast PA, will be in attainment for ozone by the required date of 2010. However, since DEP has called for implementation of CA LEV in 2008 and according to testimony given by the PA Department of Transportation at a recent Senate committee hearing that fleet turnover is about 7% per year, it’s clear that CA LEV can do very little to bring southeast PA into attainment. Further, DEP Secretary McGinty stated in the same Senate hearing that “... we won’t make our attainment requirements with the Air Resources Board standard. We will need measures in addition to the tailpipe standards in order to meet those requirements.”

If we need “measures in addition to the tailpipe standards” to fulfill our federal obligations, we need to have a clear idea what those measures are.

There continues to be debate about what the cost of the CA LEV program will be and what benefits we can expect to derive from the program. It is interesting to note that US EPA, the agency that is the final arbiter over whether Pennsylvania is in compliance with its federal air quality requirements, has cautioned states from taking too much credit for the CA LEV program. In fact, according to a March 2004 EPA document, Pennsylvania could receive a benefit of less than 1% in VOC (volatile organic compounds) reduction and less than 2% for air toxics. These minimal benefits would be in exchange for what could be a much more expensive vehicle. The California Air Resources Board has estimated the additional cost at over \$1,000 per vehicle while the auto industry believes the cost will average about \$3,000 more per vehicle.

Clouding the debate on CA LEV are the factually incorrect and misleading statements made by a number of environmental groups. These groups, some of whom served on the previously mentioned ozone stakeholder groups, have said that the Tier 2 auto will lead to “dirty air.” In fact, the standards for this car, which became effective with model year 2004, were hailed by then President Bill Clinton in late 1999 as “the boldest steps in a generation, to clean the air we breathe by improving the cars we drive.” These groups have also stated that if we don’t adopt CA LEV, our air quality will deteriorate. This statement is demonstrably wrong. According to both EPA and DEP, Pennsylvania’s air quality has improved significantly and will continue to do so. In fact, the federal Tier 2 automobile will reduce emissions 72% between now and 2020 when compared with the previous federal standard.

The Chamber remains unconvinced that Pennsylvania's best option for meeting our attainment standards lies in ceding control over our vehicle standards to another state as CA LEV would require, particularly when that program appears to deliver very little benefit while presenting consumers with the chance of significantly higher costs for new vehicles. We therefore recommend that the EQB not proceed with this rulemaking.

Sincerely,

Gene Barr  
Vice President  
Political and Regulatory Affairs