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COMMENT 5 FOR VERIFICATION WARRANTY IN-USE COMPLIANCE (VERDEV2008) - 15-1.

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Subject: RULEMAKING TO CONSIDER AMENDMENTS TO THE VERIFICATION PROCEDURE, WARRANTY AND IN-USE COMPL

Comment:

Dear CARB Members:

My public comments regard the efforts by CARB to control emissions from diesel engines in California. I want to state that I recommend that serious consideration be given to the June 17, 2008 petition challenging the August 27, 1998 CARB declaration regarding diesel particulate matter. This petition was submitted to Senator Don Perata by California professors James E. Enstrom, Matthew A. Malkan, Henry I. Miller, and Robert F. Phalen in accord with the provisions of Section 39662 (e) of the California Health and Safety Code.

I was a member of the CARB Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC) when it declared diesel exhaust to be a TAC on April 22, 1998. At that time, I expressed my concerns to an official of the California Office of Environmental Health Hazard Assessment that the SRP was designating a substance as a TAC based upon imprecise and unreliable epidemiological studies. This official assured me that it was unlikely that CARB would use this declaration to impose an onerous set of regulations. By my lights, this is just what is happening now. Based on the reservations that I expressed in 1998, along with the epidemiologic and toxicologic evidence that has been published since 1998, I believe that the classification of diesel particulate matter as a TAC needs to be reassessed. This reassessment needs to be done as soon as possible given the tremendous expense and burdens associated with the numerous recent CARB regulations designed to reduce diesel emissions.

Furthermore, based on my examination of the California Health and Safety Code, I believe that appointments to the SRP may have not been made in accordance with all relevant code sections. Six SRP members, including five members who were on the SRP with me in 1998, have served much longer than the three-year term specified in Code Section 39670 (b). Based upon recent information that I have reviewed, CARB has not regularly asked the UC President to nominate at least three candidates for each SRP position in accordance with the Code Section 39670 (b) (4). Consequently, many highly qualified California scientists have never been considered for appointment on the SRP and have never been able to provide their diverse expertise on TACs. If not actual violations of the law, these practices appear to be in violation of the spirit of the law.

Date and Time Comment Was Submitted: 2008-10-01 10:27:29

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