

**Attorneys General of New York, Connecticut, Maryland, Massachusetts,
New Mexico, Oregon, Rhode Island, and Vermont**

December 8, 2014

VIA ELECTRONIC MAIL

Sam Hirsch
Acting Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
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Email: pubcomment-ees.enrd@usdoj.gov

Re: Comments on the proposed consent decree in *United States et al. v. Hyundai Motor Company et al.* (D.D.C., Civil Action No. 1:14-cv-1837)

Dear Mr. Hirsch:

The Attorneys General of New York, Connecticut, Maryland, Massachusetts, New Mexico, Oregon, Rhode Island, and Vermont provide these comments on the proposed consent decree in *United States et al. v. Hyundai Motor Company et al.* (D.D.C., Civil Action No. 1:14-cv-1837). Although the Attorneys General support this important settlement, we write to urge the United States to consider revising the consent decree to require that at least \$25 million of the funds slated to be paid as penalties into the U.S. Treasury instead be used to fund electric vehicle programs in states that have adopted California's greenhouse gas emission standards for motor vehicles or assisted the Environmental Protection Agency in its legal defense of the federal standards.

The Attorneys General assisted EPA in successfully defending its greenhouse gas light duty vehicle emission regulations from challenge in the D.C. Circuit in 2012 and in subsequently convincing the Supreme Court not to grant certiorari on this aspect of the *Coalition for Responsible Regulation v. EPA* decision. The Attorneys General applaud EPA and the California Air Resources Board for taking action to preserve the integrity of these regulations. The proposed settlement ensures that Hyundai and Kia will not benefit from their noncompliance by requiring them to forfeit emission reduction credits that are not tied to actual reductions. It also safeguards against future violations by requiring corrective actions.

However, the proposed settlement misses a prime opportunity to achieve greenhouse gas reductions beyond those gained by compliance. Moreover, failing to include environmental mitigation measures aimed at reducing greenhouse gas emissions from passenger vehicles – the very purpose of the program Hyundai and Kia violated – sets a bad precedent for future settlements involving this federal program. As explained in detail in a comment letter being submitted by several of our state air quality agencies, some of the settlement funds therefore should be used to undertake projects that remedy the companies' violations by advancing the objectives of the Clean Air Act and the motor vehicle emission regulations that were violated.

As a result, we urge the United States to revise the settlement to provide that at least \$25 million of the approximately \$94 million currently slated to be paid into the U.S. Treasury instead be used on geographically diverse projects to accelerate the adoption of state programs outside of California for electric vehicles, including battery electric, fuel cell electric, or plug-in hybrid electric vehicles. As discussed in the state agencies' comment letter, these projects could include funding for planning and installing electric vehicle charging and fueling infrastructure; incentives for the purchase of electric vehicles; incentives for charging equipment; and other actions designed to accelerate the adoption of electric vehicles. Increasing the number of electric vehicles on our roads will help to facilitate additional reductions in greenhouse gases and other motor vehicle pollution in future years, while putting states on a path toward energy independence, better health protections, and greater economic opportunities.

Dedicating a portion of penalty funds for environmental mitigation projects is common practice in Clean Air Act settlements. By way of example, a 1998 settlement required the diesel engine industry to pay \$83.4 million in civil penalties and to undertake a number of projects costing \$109.5 million to reduce nitrogen oxide emissions, and a 2003 settlement required Toyota to pay a \$500,000 civil penalty and spend \$20 million on projects to retrofit diesel buses to run cleaner. Moreover, EPA's "Supplemental Environmental Projects (SEP) Policy" encourages the use of SEPs that improve, protect, or reduce risks to public health or the environment, are undertaken in settlement of an enforcement action, and are projects that the alleged violator is not otherwise legally required to perform. The proposed SEP described above would meet these criteria.

For the reasons stated above, the Attorneys General request that the proposed consent decree be revised to provide that at least \$25 million of the federal civil penalty funds be used for state electric vehicle programs as described above. Thank you for the opportunity to comment on this important matter.

Sincerely,


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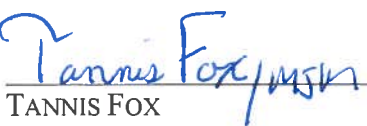
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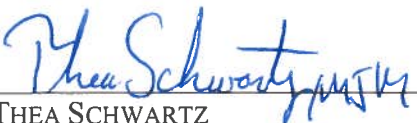
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