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Governor Schwarzenegger Announces EPA Suit Filed to Reverse Waiver Denial

Governor Schwarzenegger issued the following statement on California filing suit today against the U.S. Environmental Protection Agency (U.S. EPA) to overturn its decision denying a waiver to enforce state regulations to limit greenhouse gas emissions from cars:

"It is unconscionable that the federal government is keeping California and nineteen other states from adopting these standards. They are ignoring the will of millions of people who want their government to take action in the fight against global warming. That's why, at the very first legal opportunity, we're suing to reverse the U.S. EPA's wrong decision. California has always been a leader in protecting the environment, and we will do everything in our power to continue that proud tradition."

The lawsuit was filed today in the Ninth Circuit Court of Appeals.

Over the past 40 years, the U.S. EPA has granted California more than 40 waivers, denying none. More than a dozen other states are expected to file a motion to intervene in support of California's lawsuit, including Massachusetts and New York.

Under the Federal Clean Air Act, California has the right to set its own tougher-than-federal vehicle emission standards, as long as it obtains a waiver from the U.S. EPA.

The original request for a waiver of federal preemption of California's motor vehicle greenhouse gas emissions standards was made by the California Air Resources Board (ARB) on December 21, 2005. The waiver, allowing California to enact and enforce emissions standards to reduce greenhouse gas emissions from automobiles, was requested after the ARB developed regulations based on a 2002 California law, AB 1493 by Assemblymember Fran Pavley.

That law required California to establish new standards for motor vehicle greenhouse gas emissions beginning in model year 2009. The ARB-adopted regulations will phase in and ramp up over eight years to cut global warming emissions from new vehicles by nearly 30 percent by model year 2016.

By implementing these standards, California would be eliminating greenhouse gases equivalent to taking 6.5 million cars off the road by the year 2020. If all the other states with similar plans follow through, that figure would grow to more than 22 million

vehicles and would cut gasoline consumption by an estimated 11 billion or more gallons a year.

In letters sent on April 10, 2006, and October 24, 2006, to President Bush, the Governor reiterated the urgency of approving California's request to address global warming. On April 25, 2007, 16 months after the original waiver request, Governor Schwarzenegger sent a letter to Administrator Johnson informing him of California's intent to sue after 180 days under the Clean Air Act and Administrative Procedure Act, which provides mechanisms for compelling delayed agency action.

California's request has been supported by recent judicial decisions. In September, a court decision in Vermont confirmed that states do have the ability to adopt California's motor vehicle greenhouse gas emissions standards. Sixteen states, comprising about 45 percent of all U.S. auto sales have adopted, or are in the process of adopting, California's standards.

In the Vermont case, the judge dismissed the argument by automobile manufacturers that they could not comply with the California-based regulation because the technology was out of reach and that it would cost too much. The Vermont decision came on the heels of a U.S. Supreme Court ruling last April saying the U.S. EPA has the authority to regulate greenhouse gases.

Last month, a federal court in Fresno issued a ruling that re-confirms states' ability to set motor vehicle greenhouse gas emissions standards, modeled after California's strict regulations.

States that have adopted, or are in the process of adopting, California's strict automobile emissions standards are: Arizona, Colorado, Connecticut, Florida, Illinois, Iowa, Maine, Maryland, Massachusetts, Montana, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Utah, Vermont and Washington.

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