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June 6, 2007

Honorable Representatives from Clean Car States  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative:

We are writing you today to alert you to provisions in draft energy legislation circulated by Energy and Air Quality Subcommittee Chairman Rick Boucher that would repeal the Environmental Protection Agency's Clean Air Act authority to regulate global warming pollution from vehicles and substantially limit its authority to regulate fuels, block at least 12 states from going forward with adopted clean car standards that limit global warming emissions from vehicles, and effectively overturn the Supreme Court ruling in *Massachusetts v. EPA*. We have other serious objections, expressed in an additional letter to Energy and Commerce Committee members, that the draft legislation would subsidize highly costly and polluting liquid coal fuels while setting unacceptably weak vehicle mileage and fuel standards that do not guarantee meaningful reductions in global warming pollution and do not safeguard the health of our lands, air, and water. However, in this letter we would like to bring your attention to the bill's egregious attack on the Clean Air Act and your state's efforts to curb global warming pollution, and urge your opposition to the draft energy legislation.

The draft Boucher bill, which was circulated June 1 to Energy and Commerce Committee members in anticipation of a markup later this month, is intended for inclusion in the energy independence and global warming legislation that Speaker Pelosi called for at the beginning of this Congress. However, this proposal runs counter to those goals by explicitly blocking your state's existing global warming standards for new vehicles and overriding a recent landmark Supreme Court ruling affirming EPA's authority to curb global warming pollution.

The Boucher draft preempts state and federal Clean Air Act authority in the following three provisions of Title VII, Section 722:

- State Waivers – The Administrator shall not grant states the necessary Clean Air Act waiver to exceed federal motor vehicle pollution standards if “such standards are designed to reduce greenhouse gas emissions.”
- EPA Vehicle Regulations – Control of Greenhouse Gas Emissions: “The authority of the [EPA] Administrator to promulgate regulations under this Act regarding

greenhouse gas emissions from new motor vehicles is limited to the authority under Title VII [regarding emissions reporting only].”

- EPA Fuel Regulations: “The authority of the Administrator to promulgate regulations under this Act regarding greenhouse gas emissions from motor vehicle and nonroad fuel is limited to the authority under Title VII [the Low Carbon Fuel Program].”

These preemptions would legislatively override the Supreme Court’s recent decision in *Massachusetts v. EPA*, which reaffirmed the Clean Air Act’s definition of air pollution to include greenhouse gases, and confirmed EPA’s authority to promulgate motor vehicle greenhouse gas standards under the Act. The draft legislation also would block the nation’s first global warming emissions standards for new cars and light trucks, which were adopted by California in 2002 and have subsequently been adopted by eleven other states<sup>1</sup>. Not only would this draft legislation block current state action, it also closes the door to the growing number of states around the country that are considering adopting these standards and would prevent even federal controls under the Clean Air Act.

Under the Clean Air Act, California is granted special status to exceed federal minimum air pollution standards, and other states with air quality concerns may adopt the California standards. California’s newest emissions standard – for greenhouse gases – is currently waiting for a waiver from EPA to proceed; EPA has routinely granted more than 40 similar waivers over the past 30 years. This bill, if passed, would prevent EPA from granting California the necessary waiver to implement its new program. If California is denied a waiver, your state and other states would also be permanently prevented from limiting greenhouse pollution from vehicles and fuels, thereby endangering public health and welfare.

We ask that you work with your colleagues to remove these provisions and provisions in any other energy legislation that attempt to limit state or federal authority to address global warming. At a time when the United States and other nations must urgently work to stabilize climate, each piece of legislation we consider can have dramatic ramifications for our future. At a minimum, no new harm should be done to our environment and public health as Congress debates meaningful, comprehensive, and lasting solutions to the climate challenge.

Thank you for your attention.

Sincerely,

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<sup>1</sup> California, Connecticut, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

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cc: Members of the House Energy and Commerce Committee