

EPA Waiver Decision on California's Greenhouse Gas Emission Standards for New Motor Vehicles

On February 29, 2008, Administrator Johnson signed the Federal Register notice denying California's request for a Clean Air Act waiver to institute motor vehicle greenhouse gas (GHG) standards.

Decision

The decision represents the first time the U.S. Environmental Protection Agency (EPA) has applied the Clean Air Act waiver criteria to a global air pollution problem. Due to the unique nature of global climate change pollutants the Agency has examined whether California has a specific need for its GHG standards to meet "compelling and extraordinary conditions."

The Administrator of EPA is required to deny a California waiver request if he makes any of the following three findings as set forth in section 209(b)(1) of the Clean Air Act:

- a. California's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious;
- b. California does not need its standards to meet compelling and extraordinary conditions; or
- c. California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

Clean Air Act Section 209(b) was intended to allow California to promulgate state standards applicable to emissions from new motor vehicles to address pollution problems that are local or regional. The inclusion of section 209(b)(1)(B) indicated Congress's desire not to allow waiver of preemption for California standards to reduce emissions related to such global air pollution problems, as compared to local or regional air pollution. The Agency has found that California does not have "compelling and extraordinary conditions" and thus a waiver must be denied.

The Agency believes that global climate change is a substantial and critical challenge for the environment. EPA has fully examined the record before it and the Administrator has determined that the impacts facing California are not sufficiently different from the impacts faced by the nation as a whole. EPA's denial of California's waiver request is based solely on the "compelling and extraordinary conditions."

Background

The California Air Resources Board (CARB) requested a waiver of Clean Air Act preemption from EPA on December 21, 2005. On April 30, 2007, EPA announced an opportunity for public hearing and comment on CARB's request. EPA held two public hearings – the first in Arlington, Virginia, on May 22, 2007, and the second on May 30, 2007 in Sacramento, California.

EPA's public written comment period on CARB's waiver request closed on June 15, 2007. EPA's Air Docket (where comments are deposited into an electronic docket system available at regulations.gov – with the docket identifier number EPA-HQ-OAR-2006-0173) is continuing to process recently submitted comments.

EPA Administrator Stephen Johnson sent a letter to California Governor Schwarzenegger on December 19, 2007, communicating his intent for EPA to deny California its request for a waiver for its GHG standards. This letter indicates that the Administrator instructed EPA staff to draft the appropriate documents setting forth the rationale for a final agency denial of the waiver. The Federal Register notice provides EPA's final decision denying the waiver request.

For More Information

You can access documents and information related to the California greenhouse gas waiver request on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

www.epa.gov/otaq/ca-waiver.htm

You can also contact the OTAQ Library for document information at:

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