



Air Resources Board



Linda S. Adams
*Acting Secretary for
Environmental Protection*

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

Edmund G. Brown Jr.
Governor

July 28, 2011

The Honorable Ray LaHood
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary LaHood and Administrator Jackson:

California recognizes the benefit for the country of continuing the historic National Program to address greenhouse gases and fuel economy that the Environmental Protection Agency (EPA), the National Highway Traffic Safety Administration (NHTSA), and California began in 2009 with the standards for model years 2012 through 2016, and that those federal agencies and California are continuing for model years 2017 and beyond.

California fully supports the proposal and adoption of a continued National Program that we understand will be subject to full notice-and-comment rulemaking, affording all parties, including California, the right to participate fully, comment, and submit information, the results of which are not pre-determined but depend upon processes set by law. California welcomes the opportunity to be a partner in helping to advance a continued, harmonized National Program, which California understands does not alter California's longstanding authority under the Clean Air Act to have its own motor vehicle emissions program. California also commits to working with EPA and NHTSA, other states, and other stakeholders to help our country address the need to reduce dependence on oil, to save consumers money, and to address global climate change by continuing this kind of strong, coordinated National Program.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

In order to promote the adoption of the continued National Program, California commits to take the following actions, subject to the further understandings described thereafter below. California also stands ready to enter into any appropriate agreements permissible by law to effectuate these commitments.

- (1) California commits that if EPA proposes federal GHG standards and NHTSA proposes CAFE standards for model years (MYs) 2017 and beyond substantially as described in the July 2011 Notice of Intent, and the agencies adopt standards substantially as proposed, California will not contest such standards.
- (2) California commits to propose to revise its standards on GHG emissions from new motor vehicles for model-years MYs 2017 through 2025, such that compliance with the GHG emissions standards adopted by EPA for those model years that are substantially as described in the July 2011 Notice of Intent, even if amended after 2012, shall be deemed compliance with the California GHG emissions standards, in a manner that is applicable to states that adopt and enforce California's GHG standards under Clean Air Act (CAA) Section 177.
- (3) California commits to propose that its revised ZEV program for the 2018-2021 MYs include a provision providing that over-compliance with the federal GHG standards in the prior model year may be used to reduce in part a manufacturer's ZEV obligation in the next model year.

California's commitment to take the above actions contemplates that all of the following will occur:

- (1) Manufacturers of motor vehicles and other parties affiliated with such manufacturers and/or under their control will use their best efforts to ensure that the trade association(s) to which they belong will not contest the actions discussed in paragraphs (2) and (3) above or in paragraphs (3) through (6) below.
- (2) EPA proposes federal GHG standards and NHTSA proposes CAFE standards for MYs 2017 and beyond substantially as described in the July 2011 Notice of Intent, and the agencies adopt standards substantially as proposed.
- (3) Manufacturers of motor vehicles and other parties affiliated with such manufacturers and/or under their control, commit that if EPA proposes

- national GHG standards and NHTSA proposes CAFE standards for MYs 2017 and beyond substantially as described in the July 2011 Notice of Intent, and the agencies adopt standards substantially as proposed, said parties will not contest or challenge any part of those final rules or support any contest or challenge of those final rules.
- (4) California submits its amended GHG emissions standards for motor vehicles for MYs 2017-2025 to EPA requesting a waiver of preemption under Section 209 of the CAA, and EPA grants California's request for MYs 2017-2025.
 - (5) Manufacturers of motor vehicles and other parties affiliated with such manufacturers and/or under their control commit to not contest or challenge any part of California's emission standards for MYs 2017 through 2025 in any state or federal administrative or judicial forum, including but not limited to preemption claims relating to the Energy Policy Conservation Act (EPCA) or the 2007 Energy Independence and Security Act of 2007, or support any such contest or challenge.
 - (6) Manufacturers of motor vehicles and other parties affiliated with such manufacturers and/or under their control, do not contest or challenge any part of a final decision by EPA granting California's eventual request for a waiver of preemption under Section 209 of the CAA for model years 2017-2025, or support any such contest or challenge, but this does not apply to subsequent changes made by CARB, including changes resulting from the midterm evaluation.
 - (7) California will fully participate in the mid-term evaluation, however, California reserves all rights to contest final actions taken or not taken by EPA or NHTSA as part of or in response to the mid-term evaluation.

California believes that the actions discussed in the letter could occur under a timeline as follows:

EPA and NHTSA issue the [July 2011] Notice of Intent.

EPA and NHTSA issue a Notice of Proposed Rulemaking.

California holds a hearing on a proposed rule consistent with the actions described above.

EPA and NHTSA issue a Final Rule.

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California issues a Final Rule that revises its regulations.

EPA, NHTSA, and California conduct a mid-term evaluation for the standards for MYs 2022-2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary D. Nichols". The signature is fluid and cursive, with the first name "Mary" being the most prominent.

Mary D. Nichols
Chairman