

**TESTIMONY  
JAMES DOUGLAS  
GOVERNOR  
STATE OF VERMONT  
BEFORE THE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
U.S. SENATE**

**January 24, 2008**

Good Morning Madam Chairman, Ranking Member Inhofe, Senator Sanders and members of the Environment and Public Works Committee. On behalf of the State of Vermont, I appreciate the opportunity to come before your committee today.

**I. Vermont's Adoption of California's Standards**

As the first state to adopt California's motor vehicle greenhouse gas emission standards and to successfully defend these standards against legal challenges by the automobile industry in federal court, Vermont is a leader among the 12 states that have adopted these standards and the eight other states that have committed to adopting California's standards.

Vermont first adopted California's low emission vehicle standards in 1996 because their program placed more stringent standards on vehicle emissions than EPA's program.

Vermont has updated its standards every time California has amended theirs. In November 2005, Vermont became the first state to once again exercise its right under Section 177 of the Clean Air Act to sign on to California's amendments.

Vermont adopted California's standards as part of a comprehensive state greenhouse gas reduction plan that addresses Vermont's contribution to global warming. Climate change poses risks to Vermont's public health, welfare, and economy. In Vermont, climate change could produce a shorter ski season, allow incursion of warmer climate tree species, which would replace the current mix of hardwoods that produce our spectacular fall foliage, and result in a dramatic change in the quality and quantity of maple sap. Ours is a rural state and Vermonters have traditionally worked the land for their livelihood. Tourism, farming, logging and maple sugaring are major economic drivers. Global warming could threaten our way of life and we have an obligation to do all we can to protect our environment for future generations.

Vermonters are proud that we have the smallest carbon footprint per capita in the United States. We are a "net sink" state. We absorb more carbon than we emit. Admittedly, Vermont's adoption of California's standards alone will not solve the global warming problem, but it is a significant step in the right direction that Vermont and other states must be permitted to take. In Massachusetts v. EPA, the U.S. Supreme Court endorsed the view that partial solutions to the problem of global warming are valid and recognized that motor vehicles are significant contributors to greenhouse gas concentrations. This is particularly true in Vermont where the transportation sector accounts for approximately 45 percent of greenhouse gas emissions.

## **II. EPA's Denial of California's Waiver Request**

Under the Clean Air Act, both EPA and California are authorized to establish motor vehicle emission standards, provided that California receives a “waiver of preemption” from EPA. Congress adopted this “two-car” strategy for regulating motor vehicle pollution in 1967. In the 1977 Clean Air Act Amendments, Congress authorized Vermont and other states to adopt California’s standards. This is a state right that we embrace and that must be safeguarded. EPA’s recent waiver denial infringes on this important right because without a waiver the greenhouse gas emission standards adopted by Vermont are not enforceable.

Two years after California submitted its 2005 waiver request to EPA, The Agency issued a letter denying that request. The primary reason for denying the waiver was EPA’s belief that the national approach set forth in the Energy Independence and Security Act, signed into law on the same date as EPA’s letter, was preferable to California’s standards. EPA’s stated reason is legally irrelevant under the statutory criteria for denying a waiver set forth in Section 209 of the Clean Air Act. Moreover, the Agency’s assertion that the establishment of 35 miles per gallon fuel economy standard by 2020 required by the Energy Independence and Security Act is more aggressive than California’s emission standards is factually incorrect. To the contrary, California’s standards go into effect earlier and result in deeper reductions. In 2016, four years before vehicles are required to meet the federal fuel economy standard; California’s standards are expected to reduce greenhouse gas emissions in Vermont and the 11 states that have already adopted them by 79 percent more than that approach.

Finally, EPA's letter denying the waiver states that, in light of the global nature of climate change, California "does not have a need to meet compelling and extraordinary conditions." This conclusion ignores legislative intent and more than two decades of EPA precedent establishing that the term "compelling and extraordinary conditions" does not mean conditions that are unique to California. If California's emission standards could only address air pollution problems that are unique to California, a state's right to adopt high, but achievable, standards for the reduction of greenhouse gas emissions under the Clean Air Act would be meaningless. For these reasons, Vermont has joined with 15 other States in California's appeal challenging EPA's waiver denial as both legally and factually unsound.

### **III. Conclusion**

Today, I have outlined the reasons why Vermont adopted California's greenhouse gas emission standards and the reasons why EPA's waiver denial encroaches on the rights of Vermont and other states to do our part and to assume a leadership role in averting the impacts from global climate change. Global warming is a complicated problem that will not be solved by any one action. Coordinated state efforts to reduce emissions from the transportation sector should be applauded and the statutory provisions authorizing these state actions must be upheld. Thank you for the opportunity to testify.