



February 25, 2008

Hon. John D. Dingell, Chairman
Hon. Rick Boucher, Chairman, Subcommittee on
Energy and Air Quality
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Dingell and Chairman Boucher:

I am writing in response to the release today of your White Paper, titled “Appropriate Roles for Different Levels of Government.” NRDC believes that this White Paper represents a thoughtful examination of the many roles that varying levels of government can play in a greenhouse gas reduction system, and we are pleased by your conclusion that “the primary tool at the federal level will be a national, economy-wide cap-and-trade program that reduces emissions by 60 to 80 percent by 2050.” We look forward to working with you to enact such legislation while ensuring that states and localities can continue to make important, and in some cases, critical, contributions to fighting global warming.

As the White Paper itself notes, “it is essential that State, Tribal and local governments participate in combating climate change.” We agree, and wish to emphasize our continued strong opposition to including provisions in any new federal law that would curtail existing state authorities to regulate greenhouse gases, whether emitted from stationary or mobile sources. Such an approach would likely be counterproductive in many respects, including to the development of the most environmentally effective and cost-effective strategies for combating global warming.

We are pleased by the White Paper’s recognition that, in addition to a federal cap and trade system, there are complementary state policies that could be used to achieve additional greenhouse gas reductions, including “appliance efficiency standards, building codes, land use decisions, performance standards, public transit, and incentives to increase efficiency.” We agree. However, as discussed more fully below, we also wish to emphasize that state vehicle greenhouse gas performance standards, operating along the model set forth in section 209 of the Clean Air Act, can play a similar role and should also continue to be part of the appropriate mix of federal and state controls.

The system of cooperative federalism set forth under the existing Clean Air Act has worked well for more than 40 years in our quest to develop and enhance strategies to

combat air pollution amidst changing economic, technological, political, and environmental conditions. Although it is true that controlling greenhouse gas emissions will pose many new challenges, these challenges are not insuperable and we will be better equipped to address them if we build off the existing federal state system already in place. Many of the leading air pollution strategies used today nationally were first pioneered by the States; we cannot afford to lose the benefits of states as laboratories for innovation in fighting global warming. And as we have seen in recent years, states play a key role in serving as a backstop during times when the federal program fails to progress as planned or needed.

The White Paper sets forth a useful framework for examining federal and state roles in a greenhouse gas reduction program. It notes that greenhouse gas emissions are a global problem and raises the question whether state programs can or must result in reductions in total emissions under a national cap in order to be a useful element of a national program. The White Paper also notes that questions of implementation, administrative efficiency, cost effectiveness, and resource burdens arise from having both State/local and federal programs. But, as the White Paper also points out, there are many ways to solve such problems. NRDC believes that solutions to these issues can readily be developed without limiting existing state legal authority.

Specifically with regard to State programs to reduce emissions from vehicles, we believe that expanding preemption beyond that provided by sections 209 and 177 of the Clean Air Act would be unwise and unnecessary.¹ California's pioneering role in new vehicle technology has produced numerous benefits in terms of controlling air pollution and there is no reason why it cannot do so as well for greenhouse gas air pollutants. A strong California standard, coupled with the ability of other states to opt in, will drive the development of a new generation of vehicle technology above and beyond what a federal program would require.

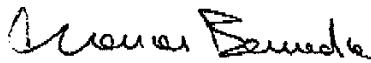
California's greenhouse gas emission standards for vehicles are likely to reduce the overall national cost of making greenhouse gas reductions to meet a national cap. There is a strong case to be made that these vehicle standards will function like building codes and other examples mentioned in the paper, by capturing an opportunity for cost-saving emission reductions that is unlikely to be achieved by the federal cap alone. California calculates that at a cost of \$3 per gallon of gasoline, the vehicle owner's net monthly cost of purchasing and operating a vehicle that meets the state's standards will go down, despite a higher initial vehicle purchase price, because the lower-emitting vehicles will also use less fuel. The savings will be greater at higher gas prices. The savings also will extend to owners of existing vehicles because gasoline prices for all consumers will be moderated by reduced gasoline demand. Allowance prices will be moderated for the same reasons. Neither a cap on global warming pollution on its own, nor the CAFE standards adopted last year, can be counted on to seize the full opportunity for cost-saving reductions that would result from the California standard.

¹ With regard to the granting of the California waiver, we wish to note that to the extent the White Paper suggests that California's request for a waiver under the current Section 209 of the Clean Air Act, is based on the State demonstrating "unique" circumstances (see white paper page 23), the appropriate test is whether California has demonstrated "compelling and extraordinary conditions." Section 209 does not, in fact, require that California demonstrate a unique or exclusive problem. If that were so, there would be no point in allowing other states to adopt California's standards under Section 177.

In addition, the production of vehicles to meet such standards need not result in a negative impact on vehicle manufacturers or auto-making jobs. NRDC supports using a portion of the allowance value to assist automakers and their employees to make the transition to compliance with higher standards, through such means as retooling incentives and consumer purchase incentives. With such assistance, there is no reason to think that California's vehicle program will result in the loss of automobile manufacturing jobs in other states—it may actually lead to an increase in such employment. In fact, transitioning to making the cleanest, most efficient cars might well be the best long-term strategy for preserving and creating more domestic auto industry jobs. And, with regard to any enhanced administrative burden arising from a more stringent vehicle standard, NRDC believes these problems can be addressed through appropriate program design and looks forward to solving such challenges in cooperation with the Committee as it develops a new federal greenhouse gas reduction law.

The White Paper examines two important questions: whether state and local programs will actually lead to overall reductions in greenhouse gas emissions and whether such programs impose undue administrative and resource burdens for greenhouse gas control system. We agree that these questions are important and we believe that these issues can and must be overcome without further limiting state legal authority. This is true for state cap and trade programs, for state complementary measures, such as fuel standards and efficiency programs, and for state vehicle standards operating along the model of the existing Clean Air Act. We look forward to working with the Committee and with its state and local partners to resolve these issues in that context.

Sincerely,

A handwritten signature in black ink, appearing to read "Frances Beinecke". The signature is written in a cursive, slightly slanted style.

Frances Beinecke
President