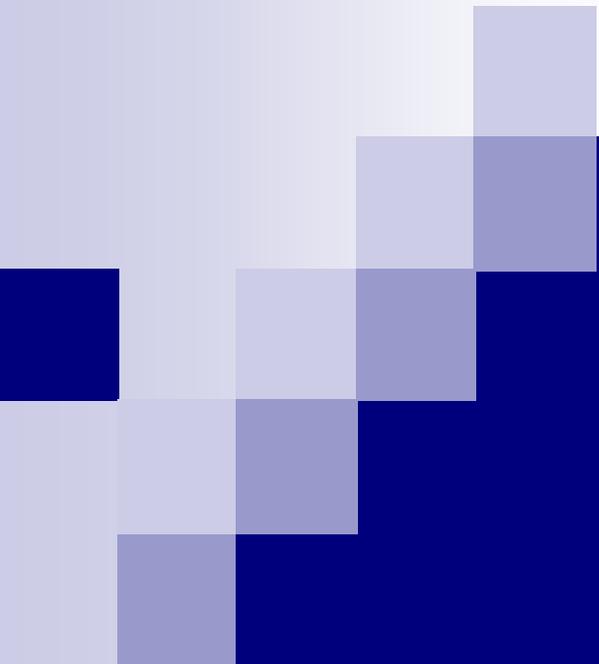


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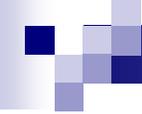


**The Pathway Forward in the
Development of Greenhouse Gas
(GHG) Emission Standards for
Motor Vehicles Under the Clean
Air Act (CAA)**

By:
George R. Crombie, Secretary
Agency of Natural Resources
State of Vermont
February 2008

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- On **April 10, 1998**, EPA General Counsel, Jonathan Cannon, issues a legal memorandum concluding that CO₂ emissions are within the scope of EPA's authority to regulate under the CAA.
 - EPA determines that it is legally authorized to regulate GHGs under the CAA.

 - On **October 20, 1999**, 19 groups file a rulemaking petition asking EPA to regulate GHG emissions from new motor vehicles under Section 202 of the CAA.
 - EPA is formally asked to regulate GHG emissions from cars.

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- On **July 22, 2002**, California Assembly Bill 1493, which required the California Air Resource Board to develop GHG standards for new motor vehicles beginning with model year 2009, signed in to law.
 - California begins developing GHG emission standards for new motor vehicles.

 - On **August 28, 2003**, EPA General Counsel, Robert Fabricant, issues a legal memorandum withdrawing former General Counsel Cannon's opinion and concluding that the CAA does not authorize regulations to address global climate change.
 - Reversing itself, EPA determines that it is not legally authorized to regulate GHGs under the CAA.

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- On **September 8, 2003**, EPA denies the rulemaking petition asking EPA to regulate GHG emissions from new motor vehicles on the grounds that the CAA does not authorize EPA to regulate GHGs and, even if it did, EPA would exercise its discretion not to do so.
 - EPA's decision is a final agency action that can be legally challenged in court.

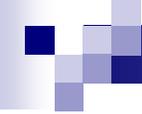
 - On **October 23, 2003**, numerous governmental entities and environmental groups file a petition to review EPA's decision to deny the rulemaking petition asking EPA to regulate GHG emissions from new motor vehicles in the D.C. Circuit.
 - EPA's decision not to regulation GHG emissions is challenged in court.

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- On **December 7, 2004**, the auto industry files a lawsuit in federal district court challenging California's regulations to control GHG emissions from new motor vehicles in Central Valley Chrysler-Jeep, Inc. v. Goldstone.
 - This is the auto industry's first lawsuit to try to stop California (and other states that eventually adopt California's emission standards) from regulating GHG emissions from cars.

 - On **July 15, 2005**, the D.C. Circuit upholds EPA's decision to deny the rulemaking petition asking EPA to regulate GHG emissions from new motor vehicles in Massachusetts v. EPA.
 - The D.C. Circuit upholds EPA's decision not to regulate GHG emissions, but the court avoids answering the question of whether GHGs are "air pollutants" under the CAA.

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- On **October 15, 2005**, California's regulations to control GHGs from new motor vehicles are finalized.
 - These are first GHG emissions standards for motor vehicles in the United States.

 - On **November 7, 2005**, Vermont is the first state to adopt California's regulations to control GHGs from new motor vehicles pursuant to CAA § 177.
 - Since then, at least 12 other states have adopted California's standards and many others have expressed their intent to adopt them.

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- On **November 18, 2005**, the auto industry files a copycat lawsuit in federal district court challenging Vermont's adoption of California's regulations to control GHGs from new motor vehicles in Green Mtn. Chrysler v. Crombie.
 - This is the auto industry's second federal lawsuit attacking California's GHG emission standards.

 - On **December 21, 2005**, California submits a request for a "waiver of preemption" for its GHG emission standards to EPA.
 - EPA must grant a waiver before California's GHG emissions standards can be enforced by California or any other state that has adopted the standards.

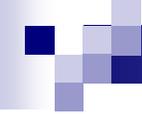
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- On **February 13, 2006**, the auto industry files a copycat lawsuit in federal district court challenging Rhode Island's adoption of California's regulations to control GHGs from new motor vehicles in Lincoln Dodge, Inc. v. Sullivan.
 - This is the auto industry's third federal lawsuit attacking California's GHG emission standards. It becomes clear that the auto industry is trying to set up a split in the Circuits.

 - On **March 2, 2006**, numerous governmental entities and environmental groups file a petition for a writ of certiorari with the U.S. Supreme Court to review the D.C. Circuit's judgment in Massachusetts v. EPA.

 - On **June 26, 2006**, the U.S. Supreme Court grants petition for writ of certiorari to review the D.C. Circuit's judgment in Massachusetts v. EPA.

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- On **April 2, 2007**, the U.S. Supreme Court issues a landmark opinion in Massachusetts v. EPA.
 - The U.S. Supreme Court holds that EPA is statutorily authorized to regulate GHG emissions from motor vehicles because GHGs are “air pollutants” under the CAA and EPA’s reasons for not regulating such emissions are arbitrary and capricious.

 - On **September 12, 2007**, the U.S. District Court for the District of Vermont rules in favor of Vermont in Green Mtn. Chrysler v. Crombie.
 - This is the first federal court decision holding that California’s GHG emission standards (and Vermont’s adoption of those standards) are not expressly or impliedly preempted by the Energy Policy and Conservation Act (EPCA).

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- On **October 5, 2007**, the auto industry appeals the federal district court's decision in Green Mtn. Chrysler v. Crombie to the 2nd Circuit U.S. Court of Appeals.

 - On **November 8, 2007**, Vermont and 13 other states motion to intervene in an unreasonable delay lawsuit filed by California seeking to compel EPA to take action on California's waiver request for its GHG emission standards.
 - This lawsuit puts legal pressure on EPA to make a waiver decision.

- On **December 11, 2007**, the U.S. District Court for the Eastern District of California rules in favor of California in Central Valley Chrysler-Jeep, Inc. v. Goldstone.
 - This is the second federal district court decision holding that California's GHG emission standards are not expressly or impliedly preempted by EPCA.

- On **December 19, 2007**, EPA denies California's waiver request for its GHG emission standards.
 - Without a waiver from EPA, California's GHG emission standards are not enforceable by California or any other state that has adopted California's standards.
 - EPA does not issue any documents describing its rationale for denying the waiver and claims the letter announcing its decision is not a "final agency action."

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- On **December 27, 2007**, the auto industry files a copycat lawsuit in federal district court challenging New Mexico's adoption of California's regulations to control GHGs from new motor vehicles.
 - This is the auto industry's fourth federal lawsuit attacking California's GHG emission standards.

 - On **December 31, 2007**, EPA fails to meet its own schedule for proposing its own GHG emission standards under Section 202 of the CAA by the end of 2007.
 - EPA has yet to propose any regulations to control GHG emissions.

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- On **January 2, 2008**, Vermont and 14 other states motion to intervene in a lawsuit filed by California in the 9th Circuit U.S. Court of Appeals to overturn EPA's decision to deny the waiver for California's GHG emission standards.
 - This lawsuit challenges EPA's waiver decision.

 - On **January 24, 2008**, the Senate Environmental and Public Works Committee holds hearing entitled, "Oversight of EPA's Decision to Deny the California Waiver."

 - On **January 24, 2008**, a Senate bill is introduced that would override EPA's decision to deny the waiver for California's GHG emission standards.