

EDWARD J. MARKEY, MASSACHUSETTS
CHAIRMAN
EARL BLUMENAUER, OREGON
JAY INSLEE, WASHINGTON
JOHN B. LARSON, CONNECTICUT
HILDA L. SOLIS, CALIFORNIA
STEPHANIE HERSETH SANDLIN, SOUTH DAKOTA
EMANUEL CLEAVER, MISSOURI
JOHN J. HALL, NEW YORK
JERRY McNERNEY, CALIFORNIA



F. JAMES SENSENBRENNER, JR., WISCONSIN
RANKING MEMBER
JOHN B. SHADEGG, ARIZONA
GREG WALDEN, OREGON
CANDICE S. MILLER, MICHIGAN
JOHN SULLIVAN, OKLAHOMA
MARSHA BLACKBURN, TENNESSEE

Select Committee on
Energy Independence and Global Warming
U.S. House of Representatives

March 11, 2009

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

In January, President Barack Obama signed a Memorandum directing the EPA to reevaluate a request for a waiver of federal preemption for motor vehicle greenhouse gas emission standards submitted by the California Air Resources Board (CARB). Your predecessor, the Honorable Stephen L. Johnson, after careful and considered deliberation, denied CARB's application for a waiver. For the reasons stated below, I urge you to uphold his decision.

Much has transpired since California sought to establish its own greenhouse gas emission standards, notably, the U.S. Supreme Court's decision in *Massachusetts v. EPA*, 549 U.S. 497 (2007), and Congress' passage of the Energy Independence and Security Act (EISA).

The Supreme Court found that greenhouse gas emissions are pollutants under the Clean Air Act. The Court also directed the EPA to determine whether, based on the requirements of the Clean Air Act, greenhouse gas emissions endanger public health or welfare. The Court did not establish a deadline for compliance by the EPA, stating, "EPA no doubt has significant latitude as to the manner, timing, content and coordination of its regulation with those of other agencies." *Massachusetts*, 549 U.S. at 533.

Shortly after this decision, the White House responded with a legislative blueprint that ultimately led Congress to enact EISA. EISA creates a national mandatory fuel economy standard of 35 miles per gallon by 2020, saving billions of gallons of gas and increasing fuel efficiency by 40%. The law also establishes an alternative fuels standard that would require 35 billion gallons of alternative and renewable fuels to be available by 2017, which is projected to displace 15% of projected annual gasoline use.

These are historic numbers. They demonstrate the seriousness of the issue and of Congress' response to a national problem. Granting California a waiver to allow individual states to establish standards separate from federal guidelines will lead to a piecemeal system of laws in different states. Not only is this unhelpful to the automakers, it creates a nightmare scenario for consumers, who, based on their state of residence, will ultimately pay higher costs for a smaller selection of motor vehicles. Carol Browner, the Assistant to the President for Energy and Climate Change, recently acknowledged this problem when she told the Western Governors

Administrator Jackson
March 11, 2009
Page Two

Association that the “administration want[s] a unified national policy when it comes to cleaner vehicles.”

The financial repercussions of an individualized response could be staggering. The federal government has already spent billions of dollars to aid the struggling auto industry. Forcing car companies to deal with non-uniform emission standards will create havoc, and could cause them to fail.

If EPA regulates greenhouse gases through an endangerment finding, the effects could be far reaching. In addition to cars, the EPA would likely have to regulate CO₂ and other greenhouse gas emissions from stationary objects that include, but are not limited to, schools, hospitals, apartment buildings, restaurants and various houses of worship. The ensuing hundreds of thousands of applications for Prevention of Significant Deterioration (PSD) permits, required under the Clean Air Act for structures that emit specified levels of greenhouse gases, will undoubtedly burden the EPA’s resources.

The EPA should uphold the current decision on California’s application. The federal government needs to let the marketplace work, which is already responding to our nation’s needs and currently offers 25 models of hybrids. Moreover, prudence dictates that the EPA wait for Congress to conclude its deliberations on nationwide fuel economy requirements. It would be negligent to allow California to dictate national policy.

In your reply to my letter, please address the following:

- (1) In the state of California, what is the current average time that it takes the EPA to grant a PSD permit? What is the longest and shortest period of time the EPA has taken to issue such a permit in California? How much time do sources commit to preparing the permit application?
- (2) How many cars are currently registered in the state of California, and what studies (if any) is the EPA conducting or has conducted to determine their CO₂ emission levels?
- (3) In the year or so since passage of EISA in December 2007, what actions has the EPA taken to comply with provisions of this law, especially in relation to the subject of vehicle emission standards?
- (4) Provide documents related to decisions or studies by the EPA regarding the emission levels of vehicles in California. How do these emission levels compare to vehicular emissions in other states?

Administrator Jackson
March 11, 2009
Page Three

(5) Is the EPA's re-evaluation of California's waiver application consistent with the administration's stated desire for a "unified national policy" for cleaner vehicles?

Thank you in advance for your consideration, and I would appreciate a response no later than April 3, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "F. James Sensenbrenner, Jr.", written in a cursive style.

F. James Sensenbrenner, Jr.
Member of Congress
Ranking Member, House Select Committee on Energy Independence and Global Warming