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June 23, 2009

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

Re: Proposed Endangerment and Cause or Contribute Findings
for Greenhouse Gases Under Section 202(a) of the Clean Air Act
[Docket No. EPA-HQ-OAR-2009-0171]

Dear Administrator Jackson:

The Attorney General of the State of California is pleased to submit these comments on the U.S. Environmental Protection Agency's proposed endangerment and cause-or-contribute findings for greenhouse gas emissions from motor vehicles. California greatly appreciates EPA's efforts in moving forward rapidly, after years of inaction, on an endangerment determination under section 202 of the Clean Air Act. The Attorney General is also joining a letter with other State Attorneys General, but wishes to convey the following additional points for your consideration.

California and others have been seeking this endangerment determination for approximately ten years. The basic facts supporting the endangerment determination have not been the subject of any real dispute for a very long time. Global warming is occurring, and it is threatening our environment and public health in a myriad of ways. *See, e.g.,* GLOBAL CLIMATE CHANGE IMPACTS IN THE UNITED STATES (Thomas R. Karl, Jerry M. Melillo, and Thomas C. Peterson eds., Cambridge Press 2009). EPA is to be applauded for recognizing this threat, and taking the initial steps towards mitigating the effects of global warming.

As important as this endangerment finding is, it must be recognized as only the first step under the Clean Air Act for addressing greenhouse gas emissions. Now, EPA must move aggressively to the next stage through adoption of regulations that explicitly reduce emissions of greenhouse gases. EPA's commitment, as announced at the White House on May 19, 2009, to adopt regulations next year for new motor vehicles for model years 2012 through 2016 is historic. We strongly encourage EPA to begin a substantial effort for adoption of new motor vehicle regulations for model years after 2016, thereby providing a clear roadmap for manufacturers and a pathway for a significant portion of the eighty percent reduction below 1990

emission levels needed by 2050. Clear and certain greenhouse gas emission reduction regulations will encourage the appropriate investments in research and development.

EPA's endangerment finding also demonstrates the need for regulations of greenhouse gas emissions pursuant to a number of other sections of the Clean Air Act. EPA, for example, should also propose and adopt regulations for power plants, industrial sources, aircraft, marine vessels, and nonroad vehicles and engines. EPA, undoubtedly, has been studying greenhouse gas emissions from these sources for some time, especially since some of these sources (such as aircraft and locomotives) can only be regulated by EPA. More than a year ago, California and other States filed petitions requesting that EPA establish standards for ocean-going vessels under Clean Air Act section 213(a)(4), for aircraft under Clean Air Act section 231(a)(2), and for non-road vehicles and engines under Clean Air Act section 213(a)(4). We encourage EPA to respond soon to these petitions, and respectfully request that EPA propose endangerment and cause-or-contribute determinations and regulations promptly.

Most importantly, EPA cannot and should not wait for Congress to act. Time is of the essence. As the Chairman of the Intergovernmental Panel on Climate Change, Rajendra Pachauri, said a year-and-a-half ago, "If there's no action before 2012, that's too late. What we do in the next two to three years will determine our future. This is the defining moment." See Elizabeth Rosenthal, *U.N. Report Describes Risks of Inaction on Climate Change*, N.Y. TIMES, Nov. 17, 2007. There is no certainty that Congress will enact any new legislation this year. And if it does, it is likely to delegate the much of the hard work to EPA. EPA needs to start now. EPA should set a course for adopting a first set of regulations, covering the most significant emissions, within the next year.

We understand that developing a comprehensive set of regulations to address global warming will require a substantial effort from you and your staff. There are numerous political, legal, administrative, and technical challenges, requiring a great deal of hard work and innovative thinking. But EPA is not working with a blank slate.

As you know, California is on track to implement a wide-ranging global warming program, under Assembly Bill 32. California's global warming program has resulted in a concerted effort over the past three years, and involved many of the country's leading experts. Next year, in 2010, the California Air Resources Board will be proposing a complete suite of individual regulatory programs and other programs. These programs will increase our energy efficiency, saving money and increasing the number of skilled jobs. They will encourage innovation, and boost our technological advantage. In developing EPA programs on global warming, we encourage you to take advantage of California's experience and expertise, and specifically point to California's Climate Change Scoping Plan (approved in December 2008). The forty-year-long cooperative partnership between California and EPA on motor vehicle criteria emission standards, as examined in a 2006 National Academy of Sciences report, is a model. We stand ready to assist you and your staff.

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Thank you for your consideration of these comments.

Sincerely,

/s/

MARC N. MELNICK
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General