



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

February 9, 2016

The Honorable James M. Inhofe
Chairman, Senate Committee on Environment and Public Works
United States Senate
205 Russell Senate Office Building
Washington, DC 20510-3603

Dear Senator Inhofe:

Thank you for your letter of January 12, 2016, requesting California's perspective on the federal Environmental Protection Agency's (U.S. EPA or Agency) regulatory framework. Through the collaborative relationship the State has developed with U.S. EPA over the last 50 years we have been able to work together with the Agency to implement a host of laws that have successfully protected public health and the environment. These laws have also provided economic benefits to individuals, communities and businesses that rely on a clean environment, healthy workers or more efficient and less wasteful industrial processes. Based on this long and positive association, the California Environmental Protection Agency (CalEPA) provides this reply to inform the Committee on Environment and Public Works' oversight of these essential programs and safeguards.

Federal laws charge the U.S. EPA with implementing and working with states to effectuate important protections for the air we breathe; the water we drink; the rivers and lakes enjoyed and used by our families, fishermen and farmers; and the land that sustains our way of life. These federal laws provide an essential floor of minimum protections and allow states to craft greater levels of protection for their people and natural resources by adopting stronger standards and programs that suit each state's unique circumstances. This cooperative federalism model protects states' rights while also safeguarding public health and welfare and environmental quality.

The federal Clean Air Act is one such landmark environmental law. When enacting this statute, Congress recognized the real dangers caused by air pollution, and it created this law to protect and enhance our national air resources by preventing and controlling such pollution. This law has been an overwhelming success; according to the U.S. EPA, between 1970 and 2014, levels of six common air pollutants decreased by an average of 69 percent while national gross domestic product grew by 238 percent.

This federal law mirrors California's experience. California has a long history of adopting legislation that helped to usher in or build upon the federal Clean Air Act's safeguards. In 1967, then Governor Ronald Reagan signed into law the Mulford-Carrell Air Resources Act, which created the California Air Resources Board; two years later the Board adopted standards for

common types of air pollution. Subsequently, Congress enacted the federal Clean Air Act amendments of 1970, and U.S. EPA adopted national standards for common air pollutants. In 1988, our state adopted the California Clean Air Act, which provided a framework for the federal Clean Air Act amendments adopted in 1990.

In the years ahead, we hope to continue this close collaborative working relationship. For example, California is looking to U.S. EPA to deliver a strong rule for reducing greenhouse gas emissions from the heavy duty vehicle sector. This rule would build on the success of California's original tractor and trailer regulation and the subsequent federal rule that reduced pollution. These requirements had the additional benefit of saving truck users fuel and money by increasing vehicle efficiency. The State has agreed to collaborate with U.S. EPA on the technical and scientific underpinnings of the new rule because it will be an important element of our climate change protection efforts to cut petroleum use in cars and trucks in half by 2030. In addition, a strong rule can lead the way for additional U.S. EPA action on more stringent air pollution (i.e. NOx) controls for vehicles in the heavy duty sector. This will be a significant issue as California works to protect public health by attaining the national ambient air quality standards for ozone and particulate matter.

Similarly, California is supportive of U.S. EPA's greenhouse gas emission standards for power plants, the Clean Power Plan. Reducing greenhouse gases from the electricity sector is vitally important to protecting public health and welfare and is of particular importance to California, where climate change is worsening serious risks from sea level rise, drought, and wildfires. U.S. EPA developed the Clean Power Plan through open communication with state regulators, and included a wide range of state plan options in the final rule that will allow for successful state implementation. In particular, U.S. EPA, in response to comments from the states, expanded the range of state measures that can be used for compliance and allowed further flexibility for plan deadlines and compliance. Since publication of the final rule, U.S. EPA has continued to actively provide states technical support, including providing model plans for review. This collaborative structure builds on the states' decades-long partnership with U.S. EPA to reduce criteria and toxic air pollutants through state planning; indeed, the greenhouse gas reductions promoted by the Clean Power Plan will also help states meet other important federal health standards by encouraging the use of less polluting energy resources generally. Further, this planning effort will provide additional support for California's ongoing programs to reduce the sources of greenhouse gas emissions in the state that contribute to climate change.

In addition, although our current air control programs will reduce smog-forming pollution, such as NOx emissions, in 2030 by over 50 percent from today's levels, sources primarily regulated by the federal government, including locomotives, aircraft and ocean going vessels, represent an ever increasingly portion of emissions in California. We have made substantial progress over the last decade, but the remaining localized risks of cancer and other adverse effects near major freight hubs, such as ports and railyards, are not acceptable and must be significantly reduced. New health science tells us that infants and children are one and a half to three times more sensitive to the harmful effects of exposure to air toxics, like those emitted from freight equipment, than we previously understood; this heightens the need for further risk reduction. Although we have established a number of state requirements, including requirements for cleaner fuels, federal action is needed to meet our health-based air quality standards, to reduce exposure to air toxics and to meet our climate change goals. We look forward to continuing to work collaboratively with U.S. EPA on these issues and encourage Congress to provide the Agency with the resources needed to develop and implement these programs.

Congress has also acted to protect our nation's water resources. When faced with rivers that caught on fire, that could not support fish and wildlife and that presented a threat for recreational uses, Congress used California's Porter-Cologne Water Quality Control Act as a model to create the federal Clean Water Act to protect and restore the rivers, lakes and other waterbodies under federal jurisdiction. California now implements state programs that meet the requirements of the Clean Water Act and provide greater levels of protection. Further, Congress approved the Safe Drinking Water Act to protect the quality of drinking water across the nation. California enacted its own, corresponding version of the act, and enforces drinking water standards that are at least as stringent as federal law.

In the period since Congress and California adopted this much-needed legislation to protect water resources, California's State Water Resources Control Board (Water Board) has worked closely with U.S. EPA Region 9 to oversee implementation of the federal Clean Water Act and the federal Safe Drinking Water Act. They have also collaborated on efforts to implement RCRA's requirements for the safe operation and closure of underground storage tanks. As has been the case with the California Air Resources Board in the area of air quality, the Water Board's experience has been that U.S. EPA Region 9 embraces the spirit of cooperative federalism enshrined in these acts. U.S. EPA coordinates and ensures a national framework, including regulatory minimums, to implement the acts, while providing sufficient latitude for California to develop its own programs to protect the state's vital water resources.

Similar to its active role in reducing air and water pollution, following the tragic incidents in the communities of Love Canal, New York, Times Beach, Missouri, and the Stringfellow Acid Pits in California, the federal government recognized the dangers posed by the mishandling and irresponsible disposal of hazardous waste. To respond to this problem, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) to help federal and state officials clean up heavily-contaminated sites, and the Resource Conservation and Recovery Act (RCRA) to create a national, cradle-to-grave system for the management of hazardous waste. As was the case with the clean air laws, California also has enacted state-based laws that implement RCRA and mirror Superfund's liability and clean up provisions, but that provide even stronger levels of protection than federal law.

Finally, California's Department of Toxic Substances Control (DTSC) and U.S. EPA have also worked very collaboratively to address threats posed by toxic chemicals in products that people use on a daily basis. For example, DTSC has had an active Memorandum of Understanding with U.S. EPA on Green Chemistry since 2012. The MOU's purpose is to enable collaboration between EPA and DTSC to advance common green chemistry goals through technical support, data exchange, and mutual communication and engagement.

Support and cooperation from U.S. EPA has also made it possible for the State to accelerate implementation of California's Safer Consumer Products regulations. These regulations provide a level of protection to Californians not afforded under the current Toxic Substances Control Act by addressing toxic chemicals in consumer products. U.S. EPA's Office of Chemical Safety and Pollution Prevention and the Office of Research and Development have provided regulatory and scientific expertise and tools which have effectively expanded our capacity to research chemical hazards, consider exposures to chemicals, and analyze products containing such chemicals, all of which are critical elements of our decision making process.

The cooperative relationship between the State and U.S. EPA exhibited in the implementation of all these programs has made the California public safer, while improving the quality of our air

and water, and protecting the national resources that support California's economy. One area where Congress could be of tremendous assistance to the State is in restoring and expanding funds that flow to the states and to U.S. EPA to implement these essential public health and environmental protections. Congress passed these laws with provisions for the federal government to assist states technically and financially in carrying out these federal programs. Unfortunately, this assistance, especially the necessary federal funds, has remained stagnant or decreased in real terms over time. This lack of resources can make it difficult to consistently provide the needed level of attention when implementing these important safeguards.

Thank you again for the opportunity to comment on this critical issue. Principles of cooperative federalism require a strong working relationship between the states and federal government. Through the years California and U.S. EPA have come to recognize that we share many common interests and objectives, and our experience shows that effective, collaborative implementation of federal laws will produce demonstrable improvements in the environment, the economy and in the protection of public health and safety.

Please let us know if you have any questions about our comments or related matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Rodriguez', with a stylized flourish at the end.

Matthew Rodriguez
Secretary for Environmental Protection

cc: The Honorable Barbara Boxer
Ranking Member
Senate Committee on Environment and Public Works
United States Senate

The Honorable Dianne Feinstein
United States Senate