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UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
MAY - 5 2008
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No. 08-1178

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED
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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF CALIFORNIA
by and through ARNOLD SCHWARZENEGGER, GOVERNOR OF THE STATE OF
CALIFORNIA, the CALIFORNIA AIR RESOURCES BOARD,
and EDMUND G. BROWN JR., ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

Petition for Review of Decision
of the United States Environmental Protection Agency

PROTECTIVE PETITION FOR REVIEW

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the State of California
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PROTECTIVE PETITION FOR REVIEW

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and section 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), the State of California by and through Arnold Schwarzenegger, Governor of the State of California, the California Air Resources Board, and Edmund G. Brown Jr., Attorney General of the State of California, hereby petitions the Court to review an action of the Administrator of the United States Environmental Protection Agency. This agency action denied California's request, under section 209(b) of the Clean Air Act, 42 U.S.C. § 7543(b), for a waiver of federal preemption for California's regulations to control greenhouse gas emissions from motor vehicles. These regulations would require reductions in fleet-average greenhouse gas emissions, including carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and hydrofluorocarbons (HFCs), for most new passenger motor vehicles sold in California, beginning with the 2009 model year. This agency action was announced in a letter to California's Governor on December 19, 2007, and was further explained at 73 Fed. Reg. 12,156 (Mar. 6, 2008).

California has already filed a petition challenging the December 19 letter in the U.S. Court of Appeals for the Ninth Circuit. *See California v. U.S. Env'tl. Prot. Agency*, No. 08-70011 (9th Cir. filed Jan. 2, 2008). California also filed a protective petition challenging the December 19 letter in this Court, but has since


requested dismissal of that protective petition, without prejudice. *See California v. U.S. Env'tl. Prot. Agency*, No. 08-1063 (D.C. Cir. filed Feb. 19, 2008).

California is filing this petition challenging the March 6 Federal Register notice for protective purposes only, pending the resolution of the pending Ninth Circuit action.

DATED: May 5, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on or before May 5, 2008, I will cause a true and accurate copy of the foregoing Protective Petition for Review to be served on the following, via certified mail, return receipt requested:

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