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Hawaii Attorney General Joins Lawsuit Challenging Preemption of California's Authority to Maintain Longstanding Clean Car Standards

HONOLULU – Hawaii Attorney General Clare E. Connors today joined a coalition of 24 attorneys general, the cities of Los Angeles and New York, and the California Air Resources Board, in filing a lawsuit against the National Highway Traffic Safety Administration (NHTSA). The lawsuit, led by California Attorney General Xavier Becerra, challenges the Trump Administration's regulation designed to preempt California's greenhouse gas emissions and Zero-Emission Vehicle (ZEV) standards, also known as California's Advanced Clean Car Standards. These standards—authorized in 2013 by a waiver from the Environmental Protection Agency (EPA) and followed in part or whole by 13 other states and the District of Columbia — are a key part of state efforts to protect public health and the environment. In the lawsuit, the coalition asserts that this Preemption Rule is unlawful and should be vacated.

"The NHTSA does not have the authority to preempt California's standards related to vehicle emissions and pollutants," said Attorney General Connors. "This attack on California's efforts hurts every state that is trying to protect its communities from pollution and environmental harm."

Under the federal Clean Air Act, California may apply for a waiver from EPA to set its own vehicle emissions standards that are at least as protective as the federal government's standards, and EPA must approve the waiver, unless it makes certain findings. Over the past 50 years, the EPA has granted 100 waivers to California. Thanks to California's vehicle emissions program, the state and other who have adopted the standards have reduced emissions by hundreds of thousands of tons annually, encouraged the development of emission controls technologies, and paved the way for stronger federal standards.

In January 2012, California adopted its comprehensive Advanced Clean Cars Program for cars and light duty trucks in model years 2017 through 2025. The program combines the control of smog-causing pollutants and greenhouse gas emissions into a single coordinated package. The program improves air quality and curbs greenhouse gases while saving drivers money at the pump. On its own, the California program would reduce carbon dioxide emissions in the state by approximately 14.4 million metric tons a year by 2025 and 25.2 million metric tons a year by 2030. When accounting for emissions savings from other states that have adopted California's standards, these emission reductions nearly triple.

Through its unlawful Preemption Regulation, NHTSA is attempting to declare the California greenhouse gas and ZEV standards preempted under the Energy Policy and Conservation Act (EPCA), based on arguments repeatedly rejected by multiple courts. In doing so, NHTSA oversteps the authority granted to it by Congress and ignores Congress's careful and repeated preservation of California's authority.

In the lawsuit, Hawaii asks the court to strike down the regulation as unlawful on the basis that NHTSA:

- Purports to exercise authority that Congress has not granted the agency: namely, to decree what EPCA does or does not preempt;
- Imagines an inherent conflict between two sets of rules, California's GHG and ZEV standards and NHTSA's fuel economy standards, that have co-existed for years;
- Willfully misreads EPCA as preempting state emission standards it explicitly directed NHTSA to account for, and as implicitly repealing portions of the Clean Air Act;
- Ignores the authority and intent of Congress, which has repeatedly reaffirmed and embraced California's authority over the last four decades;
- Flouts the National Environmental Policy Act by failing to assess or analyze the damage that the agency's Preemption Rule will inflict on the environment and public health;
- Acts arbitrarily and capriciously by failing to explain about-faces from its previous positions or its reasons for acting;
- Fails to respect states' authority to protect public health and welfare; and
- Disregards the role these standards play in helping California and other states meet National Ambient Air Quality Standards

Attorney General Connors joins this coalition led by California Attorney General Becerra and includes the attorneys general of Colorado, Connecticut, Delaware, Illinois, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, Wisconsin, and the District of Columbia; as well as the cities of Los Angeles and New York.

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