

Sarah  
Dunham/DC/USEPA/US  
06/18/2007 05:42 PM

To Rebecca White  
cc  
bcc  
Subject Fw: Problem with Friday's briefing package

fyi, since this might come up in the future (not at all because i think you had any involvement in this last week). i think he is referring to page 6 of the attached briefing that was given to the Administrator last Friday.



SJ Briefing CA\_GHG Status June 15 final.ppt

----- Forwarded by Sarah Dunham/DC/USEPA/US on 06/18/2007 05:37 PM -----

Don Zinger/DC/USEPA/US

06/18/2007 05:36 PM

To Karl Simon/DC/USEPA/US@EPA, Sarah  
Dunham/DC/USEPA/US@EPA  
cc

Subject Problem with Friday's briefing package

We had a fairly significant slip up in preparing Friday's GHG briefing for the Administrator. It's the very last bullet on page 6 -- "OTAQ's initial assessment ....." This whole page was based on a previous briefing package we used to brief SLJ a while ago. When Bill reviewed the draft back then he deleted that bullet. I remember talking to Karen about it and she deleted it from the final package. Somehow, in preparing Friday's package, I am guessing that Karen started with an outdated version. Bob was not happy when he read that page during the briefing. Part of the blame falls on me. Karen sent me the draft Friday morning and I quickly reviewed it. When I got to page 6 I started to read it and (incorrectly) assumed it was exactly the same as last time so I did not read it to the end. I explained that to Bob. I know Karen is out this week but I wanted to let someone in OTAQ know about this so we can permanently delete the offending language and not have it arise again. Anything you can do to help would be appreciated.

EPA-3584

# President's GHG Rule: Status Briefing

Briefing for Administrator Johnson  
June 15, 2007

# Agenda

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- The California Waiver Request
- Vehicles Updates
- Fuels Updates
- Schedule

Staff Draft Deliberative Material

# California GHG Waiver Overview

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- Chronology
- Waiver Criteria
- Record/Comments to Date
- EPA's Administrative Process
- Schedule

# Chronology

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- Supreme Court decision in *Mass v EPA* issued on April 2, 2007
- April 30, 2007, EPA published a notice of a public hearing and opening of comment period regarding California's request
- EPA hearings – May 22, 2007 in Crystal City, VA and May 30, 2007 in Sacramento, CA
- Written Comment Period Closes June 15, 2007
  - Requests for an extension of comment period received from the Alliance of Automobile Manufacturers (May 9 and May 23, and June 11); AIAM, NADA and Utility Air Regulatory Group
  - June 8, 2007 – EPA letter restating the comment period deadline of June 15, 2007

# Waiver of Preemption – Clean Air Act Criteria

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- Waiver review will be guided by Section 209(b) – Requires EPA to grant CA a waiver unless any of 3 specified criteria are found by EPA
- EPA shall waive the preemption in 209(a) unless:
  - California was “arbitrary and capricious” in determining that its standards will be, in the aggregate, at least as protective of public health or welfare as applicable federal standards;
  - California does not need such state standards to meet compelling and extraordinary conditions; or
  - Such standards...are not consistent with section 202(a) of the Act.
- Additional comment sought on 3 questions relating to 209(b) criteria
  - Given that CA’s regulations relate to global climate change should that affect EPA’s evaluation of the 3 statutory criteria?
  - Whether the Mass v. EPA Supreme Court decision is relevant to EPA’s evaluation of the 3 statutory criteria?
  - Whether the Energy Policy and Conservation Act (EPCA) fuel economy provisions are relevant to EPA’s consideration of CA’s petition or to CARB’s authority to implement its vehicle GHG regulations?

# Record/Comments to Date

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- Expect most comments to be submitted on June 15<sup>th</sup> deadline
- Docket: 33,000 plus mass mailing comments, Initial comments of the Alliance of Automobile Manufacturers dated June 5, 2007
- EPA hearings
  - Approximately 30 testifiers in Virginia and over 50 in CA
    - Variety of state and local governments, environmental and public health organizations, academia, industry, and citizens
    - Overwhelming support for granting the waiver
      - Only opposition came from auto makers (no individual companies testified)
  - Key messages/evidence presented
    - CA has compelling need for their program
      - Impact on snowpack, NOx and VOC, rising sea levels, etc.
    - Important first step
    - No legal or technical rationale to deny waiver
    - Past waiver practice demands approval
    - Autos: CA has not demonstrated that program will make any difference in future temperature estimates and briefly raised a few general issues
    - OTAQ initial assessment from May 11<sup>th</sup> briefing – CA met the statutory criteria for a waiver; interim assessment based on waiver record to date also supports this conclusion

# Proposed Schedule

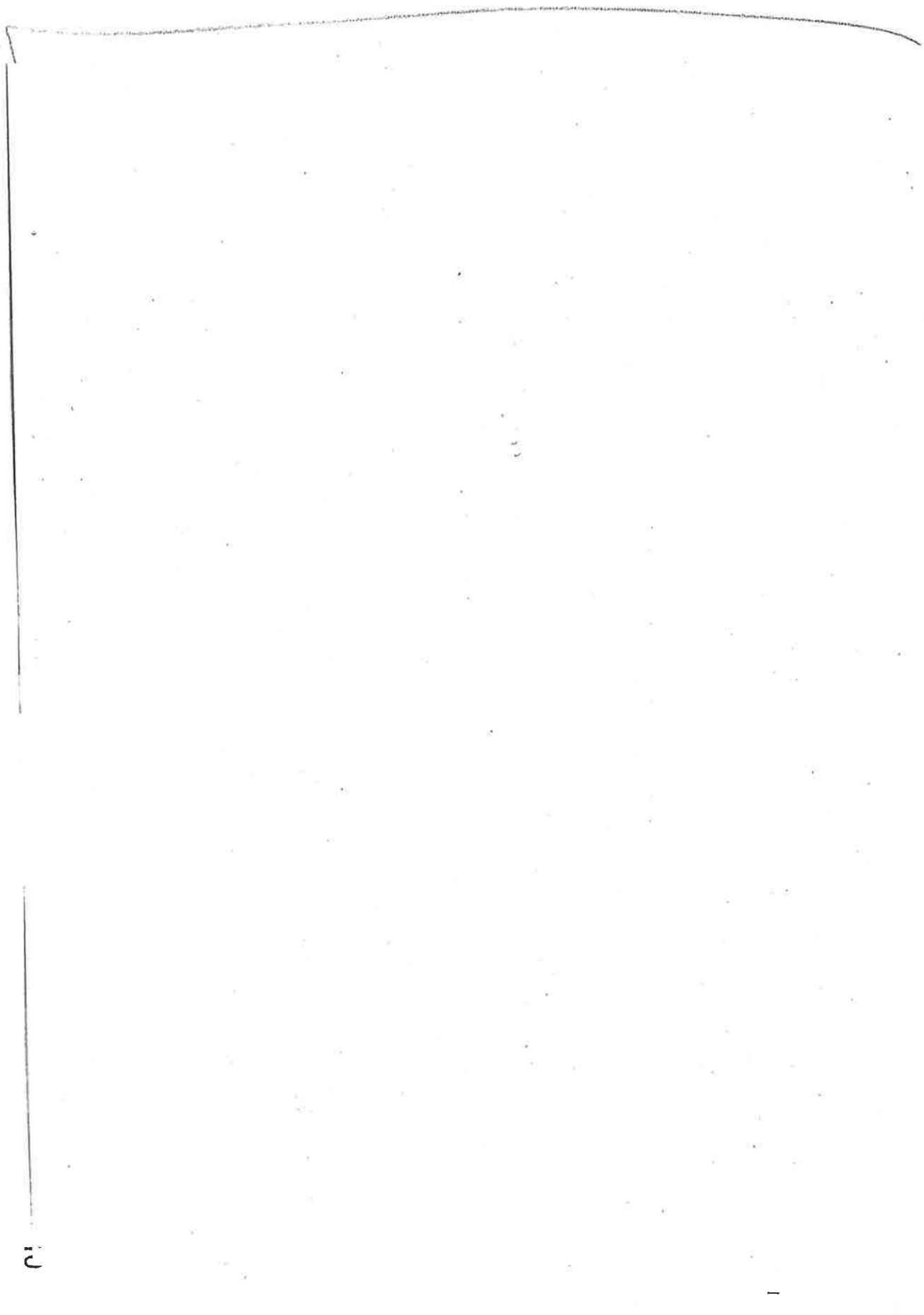
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- Comment period closes June 15
  - Expect significant amount of written comments, especially from auto industry
  - Will conduct overview of comments received to see if proposed schedule is realistic and to identify on a broad basis the scope of technical and legal issues
  - Targeting summary of written comments for 30 days after close
    - Likely to get follow-up comments as well
  - Comment summary/issues briefings for the Administrator
- Approximately an additional 45 days for OAR, OGC drafting of decision document
- Decision Document review by senior management
- Signature – This Fall (Late October – November)



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p3 8 -





21















