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**BEFORE THE SELECT COMMITTEE ON ENERGY INDEPENDENCE
AND GLOBAL WARMING
U.S. HOUSE OF REPRESENTATIVES
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Mr. Chairman and members of the Committee, I appreciate the opportunity to discuss with you today the Environmental Protection Agency's response to several important developments concerning the federal government's efforts to address the serious issue of global climate change. Those developments include the Supreme Court's April 2, 2007 decision in *Massachusetts v. EPA*, the President's May 14, 2007 Executive Order on control of greenhouse gas emissions from motor vehicles, nonroad vehicles, and nonroad engines, and the December 19, 2007 enactment of the Energy Independence and Security Act (EISA). In response to those developments, EPA and the Departments of Transportation, Energy and Agriculture have been hard at work developing additional measures for reducing greenhouse gas (GHG) emissions in ways that help protect and enhance this nation's environment, economy and energy security.

Vehicle and fuel standards that reduce GHG emissions are key elements of a national approach for addressing the challenge of global climate change. Through his "Twenty in Ten" initiative, the President committed the United States to take the lead in reducing GHG emissions by pursuing new, quantifiable actions. Congress agreed by approving new fuel and vehicle fuel economy standards as part of EISA. These national standards recognize that climate change is a global problem and are part of the solution.

The changes brought about by EISA will prevent billions of metric tons of GHG emissions to the atmosphere.

Last summer, in response to the Supreme Court's decision in *Massachusetts v. EPA* and the President's Executive Order, EPA began work with DOE, USDA, and DOT to develop new regulations that would cut GHG emissions from motor vehicles and their fuels. This effort included the establishment of a number of technical staff teams, including one focused on the development of a vehicle rule, one on a fuels rule, and another on an endangerment determination.

EPA had planned to propose the GHG rules by the end of 2007, but this did not occur. A major factor contributing to this result was Congress' approval and the President's signature into law of EISA on December 19, 2007. In this regard, EISA amended Clean Air Act provisions requiring a Renewable Fuels Standard (RFS) that were first established in the Energy Policy Act of 2005. EISA also separately amended existing Energy Policy and Conservation Act (EPCA) provisions with regard to the Department of Transportation's authority to set Corporate Average Fuel Economy (CAFE) Standards.

With regard to the RFS, Congress amended Section 211(o) of the Clean Air Act to increase the RFS from 7.5 billion gallons in 2012 to 36 billion gallons in 2022. There are a number of significant differences between the RFS provisions of EISA and the fuels program EPA was developing under the President's Twenty-in-Ten plan. As a result,

substantial new analytical work is required, including new analyses related to renewable fuel lifecycle emissions, costs and benefits of EISA fuel volumes, and the environmental, economic, and energy security impacts of these fuel volumes. In addition, as a result of the legislation's inclusion of a regulatory deadline of December 2008 for many of the RFS provisions, EPA is currently in the process of developing necessary implementing regulations specific to the new law's requirements.

With regard to motor vehicle regulations, EISA did not amend Section 202 of the Clean Air Act, which contains EPA's general authority to regulate air emissions from motor vehicles and motor vehicle engines. However, EISA did substantially alter the Department of Transportation's authority to set mileages standards for cars and trucks under EPCA, which directly affects the emission of carbon dioxide from new motor vehicles. The legislation directs the Department to set CAFE standards that ultimately achieve fleet-wide average fuel economy of at least 35 miles per gallon by 2020. It also directs the Department to set the standards for five years at a time, and mandates the use of attribute-based standards.

This new statutory authority, which is now less than three months old, has required DOT to review the previous regulatory activities that it had undertaken pursuant to Executive Order 13432. Since the Executive Order requires close coordination between EPA and other Federal agencies and, since EISA itself requires consultation between EPA and DOT with regard to new CAFE standards affecting cars and trucks, it

is therefore incumbent on EPA to work with DOT on new standards which rely on the new law.

EPA recognizes that the new energy law does not relieve us of our obligation to respond to the Supreme Court's decision in *Massachusetts v. EPA*. We are formulating a response as part of our development of an overall approach to most effectively address GHG emissions. A decision to control GHG emissions from motor vehicles would impact other Clean Air Act programs with potentially far-reaching implications for many industrial sectors, so it is vitally important that we consider our approach to GHG control from this broader perspective.

In developing an overall GHG approach, we have come to appreciate the complexity and interrelationship of potential approaches to GHG regulation under the Clean Air Act, and the resulting importance of developing a sound, comprehensive approach. For example, as we gather information to identify the potential universe of affected facilities if GHGs are regulated under the Act, we recognize that thresholds used for Prevention of Significant Deterioration (PSD) determinations may greatly increase the number of facilities subject to the New Source Review permitting program. Using a 250-ton per year threshold, examples of facilities that could be newly subject to Clean Air Act permitting requirements include large apartment buildings, schools, hospitals and retail stores. In addition, for many combustion sources, some of the most effective mechanisms for mitigating GHGs, such as carbon capture and sequestration, need

significant study and development before they could be implemented in a regulatory approach.

EPA is making progress in evaluating the availability and potential use of various Clean Air Act authorities for GHG mitigation efforts, including the New Source Performance Standards (NSPS) program. The Agency is continuing to collect information to evaluate the scope of sources potentially affected; the flexibility, reasonableness, and effectiveness of potential options for regulation under each authority; and the potential implications of each decision, including the interrelationships between different parts of the Act. For example, we have compiled publicly available data on potential greenhouse gas emissions across industrial sectors and have evaluated the use of surrogate data to predict potential carbon dioxide emissions.

In view of these potential effects of Clean Air Act regulation, we are continuing to evaluate the availability and potential use of various CAA authorities for GHG mitigation, to determine the best overall approach for handling the challenge of global climate change for all sources, both mobile and stationary. While we continue to make progress in developing an approach, I cannot now commit to a certain date by which we will have a fully articulated approach in place or a response to the *Massachusetts* case completed.

As we go forward, I will keep the Committee apprised of EPA's response to the Supreme Court's opinion in *Massachusetts v. EPA* and the new energy law approved by Congress.

Thank you, Mr. Chairman and the members of the Committee for this opportunity. This concludes my prepared statement. I would be pleased to answer any questions that you may have.